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[988A] In the United States Court of Appeals for the Fourth Circuit

No. 9223

UNITED STATES OF AMERICA, APPELLEE

v.

THOMAS F. JOHNSON, J. KENNETH EDLIN, AND WILLIAM L. ROBINSON, APPELLANTS

Appeal from the United States District Court for the District of Maryland

ROSZEL C. THOMSEN, *Chief Judge*

Appellee's Appendix—Filed March 26, 1964

[File endorsement omitted]

[989] In United States District Court for the District of Maryland

Transcript of proceedings

[Testimony of Government Witnesses]

Thereupon,

* * * * *

JACKSON D. RAINS was called as a witness on behalf of the Government, being first duly sworn, was examined by counsel and testified as follows:

The CLERK. State your name for the record.

The WITNESS. Jackson D. Rains.

The CLERK. How do you spell your name, sir?

The WITNESS. R-a-i-n-s.

The CLERK. Take the stand, please.

Jackson D. Rains.

DIRECT EXAMINATION

* * * * *

Q. Can you tell us, sir, whether you have ever been employed by any of the defendants in this case?—A. Yes, sir, I have been employed.

Q. And by which of the defendants?—A. I was employed by the First Continental Mortgage Corporation by Mr. Edlin.

Q. And is that Mr. J. Kenneth Edlin?—A. J. Kenneth Edlin.

Q. Do you see him in the courtroom here today?—A. Yes, sir.

Q. Would you point him out, please?—A. [Points.] Sitting behind Mr. Robinson.

Q. [Indicating the defendant.] Can you tell the ladies and gentlemen of the Jury when you were hired, when you were first hired?—A. I was employed in August of 1958.

[990] Q. And for how long did your employment continue?—A. I was employed from that date until February of 1962 by various corporations.

Q. And where was it that you were hired?—A. In Miami, Florida.

Q. And who did the hiring of you?—A. Mr. J. Kenneth Edlin.

Q. What generally was your job; that is, what you were hired as?—A. I was hired as an accountant.

Q. To keep the books of any company?—A. To keep the books and records of First Continental Mortgage Corporation. That was the only corpration I knew about when I applied for the job.

Q. First Continental Mortgage Corporation?—A. Yes, sir.

Q. And did there come a time when you began to work on the books or the records of any other company?—A. Yes, sir, shortly after my employment I knew that the First Colony Savings and Loan Association, Prince Frederick, Maryland, had been in operation some months prior to my employment and the books and records were maintained in the Miami office of First Continental Mortgage Corporation.

Q. Books and records of First Colony?—A. Yes, sir.

Q. What books and records of First Colony were kept in the Miami office of the First Continental Mortgage Corporation?—A. All of the books and records.

Q. Can you describe them, please?—A. That consisted of the cash receipts, the cash disbursements journal, and within thirty days of my employment I set up a general ledger and transcribed the entries from the journal into the general ledger, and, of course, the posting of pass books for First Colony savings.

Q. Savers' pass books?—A. And also letters written to depositors answering inquiries was all done in my office [991] of the First Continental Mortgage Corporation.

* * * * *

Q. Now, can you tell us whether or not there came a time when an indictment was returned in this District against Mr. Edlin and others?—A. Yes, sir.

Q. Do you recall that time?—A. Yes, sir.

Q. And can you tell us approximately when that indictment was returned?—A. November 19, 1959.

Q. Who was the indictment against?—A. Mr. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Rosabelle Edlin and myself.

Q. What were you all indicted for?—A. Mail fraud.

Q. Can you tell us whether it was in connection with the operation of any particular company?—A. The indictment?

Q. Yes.—A. It was in connection with First Colony Savings and Loan Association.

Q. Can you tell us whether or not there came a time that you met a man by the name of Martin Heflin?—A. Yes.

Q. When?—A. Early summer of 1960 in Miami.

Q. You met Mr. Heflin in Miami?—A. Yes, sir.

Q. Where in Miami did you meet him?—A. In the office of First Continental Mortgage Corporation.

Q. How if at all, did he fit into the organization?—A. He became the public relations man for the association in subsequent operations and headed up an Institute of Independent Savings and Loan Associations.

Q. You say he headed up an organization known as "The Institute of Independent Savings and Loan Associations"?—A. Yes.

Q. At the time that he came with the organization, who were the members, if you know, of the Institute of Independent Savings and Loan Associations?—A. Only two. First Colony Savings and Loan Association of Prince [992] Frederick, and First Continental Savings and Loan Association.

Q. What was First Continental Savings and Loan Association?—A. The charter was obtained at the same time that First Colony Savings and Loan charter was obtained but it was not activated until a much later date.

* * * * *

Q. Now, can you tell us whether or not there came a time when you became aware of a speech by Congressman Johnson?—A. Yes, sir.

Q. Can you tell us whether or not you had occasion to speak with Mr. Edlin about it?—A. Mr. Edlin showed me a typewritten carbon copy of a speech.

Q. Now, before you go on, can you tell us where this took place?—A. This took place on the premises of First Continental S[illegible]gs and Loan Association in the stationery room which was [illegible]ore or less a private office.

Q. Private office of whom?—A. Mr. Edlin used it as a private office when he wanted to discuss something in privacy.

Q. Can you tell us when this conversation took place?—A. This was either immediately before or immediately after the speech. I am not sure which.

Q. Now, tell us what took place at that time, please.—A. Well, naturally, Mr. Edlin was always concerned that I was under indictment and he frequently pledged to me that the indictment would never go to trial, that I would be out from under it.

* * * * *

Q. Tell us what was said during that conversation in the store room?—A. What was said in substance is, Mr. Edlin was saying to me—"you see, we have friends on the Hill—we have nothing to fear on our indictment. These people are interested in us and the injustice we have been done."

Q. Did Mr. Edlin show you this carbon of this speech?—A. Yes.

[993] Q. Did you read it?—A. I glanced over it hurriedly.

Q. Can you tell us how that compared, if at all, with the conversation which had taken place in the Congressional Hotel?—A. The pertinent points were there.

Q. Now, can you tell us whether or not at any time prior to that conversation you had had any conversations with Mr. Edlin with respect to the pending indictment?—A. When he informed me of my indictment, he called me to his home and he pledged to me that it would never go to trial, that we did

not intend to defraud and, therefore, they could never prove anything, and he constantly reiterated that statement to me almost daily.

Q. Now, around the time of this storeroom incident that you have related, did you have any occasion to take any airplane rides?—A. Yes, sir, this was just before the long 4th of July weekend, those of us who lived in Florida and were working up here went back in a body.

Q. Do you remember about when it was that you went back?—A. The usual pattern of departure was in the afternoon of the Friday and then returning Sunday but in this event, I believe the 4th fell on Monday and therefore, we came back on Monday afternoon.

The COURT. Is this the 4th of July, 1960, or some other year?

Mr. WEINER. 1960.

By Mr. WEINER:

Q. Now, who was present in this airplane in your party?—A. Mr. Edlin, Mr. Robinson, John Leier, Raymond Gannon, and myself.

Q. What, if anything, took place during that plane ride?—A. Everyone was in good spirits. Mr. Edlin and Mr. Robinson were sitting together and they were showing the speech back and forth and saying, jokingly, or facetiously, "how do you like the speech I wrote," and the otner one would say, "What do you mean, you wrote it? I wrote it," and that sort of thing. [994] Q. Now, the speech that you say they were showing back and forth?—A. The same carbon copy that they had shown to me.

Q. The same one that was shown to you?—A. Yes.

* * * * *

Q. Mr. Rains, I next show you government exhibit 12 for identification and I ask you if you can identify that.—A. This is a check drawn on First Continental Savings payable to Johnson & Johnson, Snow Hill, Maryland, $3500 May 2, 1961.

Q. Did you prepare this?—A. I did.

Q. At anyone's instructions?—A. Mr. Edlin's.

Q. Where was this prepared?—A. Chevy Chase, Maryland.

Q. How did you happen to make this payable to Johnson & Johnson, Snow Hill, Maryland?—A. I got that information from Mr. Edlin.

Q. All right.

Mr. WEINER. Your Honor—we would like to offer this into evidence, Government Exhibit 12.

The CLERK. Government 12 marked in evidence.

[Government Exhibit 12 received in evidence.]

Mr. WEINER. Your Honor, we would like to have marked as government Exhibit 26 for identification a book of check vouchers of the First Colony Savings and Loan Association.

The CLERK. Government Exhibit 26 marked for identification.

(Government Exhibit 26 marked for identification.)

* * * * *

Q. I show you Government Exhibit 26 for identification and I will ask you if you can identify that.—A. Yes. This is the numerical voucher copy of the checks and what you have shown me is a voided check and it was our practice to attach——

[995] Q. Of what company is that?—A. First Colony Savings.

* * * * *

A. This check is attached as you see, because it is voided and it was our practice to attach the original check to the copy in such cases.

Q. Now, do you recall typing that check?—A. Yes, sir.

Q. That I have shown you?—A. Yes.

Q. Was it typed under anyone's instructions?—A. Mr. Edlin's.

Q. Do you recall how or what you did with the check after typing it?—A. Not specifically. I am inclined to believe I mailed it because I have the complete address typed on the check and when I did that it was because we had window envelopes that the check would fit into for mailing.

Q. Can you tell us from looking at that whether it was voided at the time it was issued or whether it was voided some time later?

* * * * *

The CLERK. Government Exhibit 27 which is a check dated May 2, 1961 out of Government Exhibit 26, marked for identification.

* * * * *

Q. Can you tell from looking at the documents, the entries on Government Exhibits 26 and 27 and the cash disbursements

journal of First Colony Savings and Loan Association whether this check was voided immediately when it was issued or whether it was voided at some later time?—A. Yes, sir.

Q. You can tell?—A. Yes, sir.

Q. Can you tell us what you have determined from looking at them and the cash disbursements journal?—A. The check is written up in the cash disbursement journal on page 5–101. If this check had been voided immediately upon re- [996] ceipt, the entry would not appear with the amount listed. It would say "void."

* * * * *

Q. Can you tell from looking at the books whether it was voided before or after the close of the books for the month of May of 1961?—A. It would require a journal entry as of May 31, in order to void the check. That does not necessarily mean that the entry was actually made on May 31 but it was made some time subsequent to May 2 and before about June 10.

Mr. WEINER. Government Exhibit 26–A is the check voucher that says "Pay to the order of Johnson & Johnson, Snow Hill, Maryland, May 2, 1961, $1,500" and Government Exhibit 27 is the voided check.

By Mr. WEINER:

Q. Now, can you tell us whether or not it was your usual practice when a check was voided to tear off the edge of the check?—A. There would never be a reason for me to do that. I would tear the signature section off.

Q. Just this part here?—A. Yes.

Q. Now, directing your attention back to Government Exhibit 12, the First Continental Savings Check of May 2, 1961 in the amount of $3,500 to Johnson & Johnson, Snow Hill, Maryland, could you tell us how this was charged on the records of First Continental Savings and Loan Association?—A. This check was written up on the First Continental Savings Cash Disbursement Sheet 5–101, line 24. A credit of $3,500 drawn on the National Bank of Bethesda, Chevy Chase, and charged to account 4133 Legal Services—Special.

Q. Now, from that entry that you read, can you tell the ladies and gentlemen of the jury whether that was a disbursement from the general funds of the Association or whether that was a disbursement from any particular loan account of the

Association?—A. This was a disbursement from the general funds of the Association.

[997] Q. I show you Government Exhibit 13 for identification. I ask if you can identify that?—A. Yes.

Q. Did you draw that check?—A. I did.

Q. Under anyone's instructions?—A. Mr. Edlin's.

Q. Where did you draw that?—A. In Chevy Chase, Maryland.

Mr. WEINER. I offer that into evidence, Your Honor, Government Exhibit 13.

The COURT. First Continental.

Mr. WEINER. Yes, sir.

The CLERK. Government Exhibit 13 marked in evidence.

[Government Exhibit 13 marked in evidence.]

By Mr. WEINER:

Q. In the amount of $2,500. Government Exhibit 13 is a check of the First Continental Savings and Loan Association—Chevy Chase, Maryland, May 25, 1961, Pay the sum of $2,500 to the Order of Johnson and Johnson, endorsed Johnson & Johnson, containing the same "Pay to any Bank or Banker, Exchange Savings Bank, Berlin, Maryland." The voucher bottom half says 5–25–61, Legal Fees in Full—Brook, $2,500.00.

Could you tell us before I show this to the jury how that check was charged on the records of First Continental Savings and Loan Association?—A. This was written up in cash disbursements of First Continental Savings, sheet 5–109, line 31, $2,500. Drawn on the National Bank of Bethesda, Chevy Chase, Maryland, charged to account 4133, legal services—Special.

Q. Was this a disbursement from the general funds of the Association or from a loan account of the Association?—A. This was from general funds of the Association.

Mr. WEINER. Your Honor, the next thing I wanted to get into is another sheet of the exhibit that is going through [998] the jury. 26–A and 27. It seems to me they are almost finished.

Mr. WEINER. If Your Honor please, I would like to have marked Government Exhibit 26–B and 28—a check voucher and voided check dated May 25, 1961.

The CLERK. 26–B is to be what?

Mr. WEINER. 26–B should be the voucher and 28 the voided check.

The CLERK. Government Exhibit 26–B voucher marked for identification. Canceled check—voided check government Exhibit 28 marked for identification.

(Government Exhibit 26–B and 28 marked for identification.)

By Mr. WEINER:

Q. Mr. Rains, I show you a check voucher and voided check dated May 25, 1961 which are government Exhibits 26–B and 28 for identification and ask you if you can recognize these.—A. Yes, sir, I drew the checks.

Q. At anyone's instruction?—A. Mr. Edlin's.

Q. Where?—A. Chevy Chase, Maryland.

Q. Can you tell from looking at these checks and the books of First Colony whether this check was voided at the time of issuance or whether this check was voided some time later?—A. It was voided later. I can tell my my handwriting on the check voucher because I refer to a journal entry in voiding it.

Q. Now, can you tell us who it was if you know who was who tore off the end of those two checks?—A. I do not know.

Q. The one I showed you earlier and this one.—A. I do not know.

Q. You do not know who tore them up?

[999] Mr. WEINER. If Your Honor please, we would like to offer into evidence at this time Government Exhibit 26–B and 28 for identification.

The CLERK. Government Exhibit 26–B and 28 marked in evidence.

[Government Exhibits 26–B and 28 are received in evidence.]

Mr. WEINER. Government Exhibit 28 is the voided check of the First Colony Savings and Loan Association, Inc., Prince Frederick, Maryland, May 25, 1961, the sum of $2,500. Then there is a symbol Johnson and Johnson, and the bottom half of the exhibit, the check voucher in this case says 5–25–61, legal fees in full—Waldorf, $2,500.

By Mr. WEINER:

Q. Mr. Rains, I next show you Government Exhibit 14 for identification and I ask you if you recognize that.—A. Yes, I drew this check.

Q. Under anyone's instructions?—A. Mr. Edlin's.

Q. Where did you draw that?—A. In Chevy Chase, Maryland.

Q. All right.

Mr. WEINER. If Your Honor please, we would like to offer into evidence at this time Government Exhibit 14 for identification, check of First Continental Savings and Loan dated June 7, 1961, in the amount of $4,000.

The CLERK. Government Exhibit 14 marked in evidence.

[Government Exhibit 14 marked in evidence.]

By Mr. WEINER:

Q. Government Exhibit 14 First Continental Savings and Loan Association, Chevy Chase, Maryland, June 7, 1961, pay the sum of $4,000 to the order of Johnson & Johnson, endorsed Johnson & Johnson, pay to any Bank or Banker Prior Endorsement Guaranteed, Exchange and [1000] Savings Bank, Berlin, Maryland, Raymond F. Davis, (231) Cashier. The second half of the voucher reads 6–7–61 "Legal $4,000." Before showing this to the jury would you tell us what the entry in the books of First Continental Savings and Loan is with respect to this check?—A. The entry is in cash disbursements of First Continental Savings, page 6–104, line 9, $4,000 drawn on the National Bank of Bethesda, Chevy Chase and charged to account 4133 "Legal Services—Special."

Q. Can you tell us whether this was paid out of the general funds?

* * * * *

Q. I next show you Government Exhibit 15 for identification and ask if you recognize that.—A. Yes, sir, I drew this check on Mr. Edlin's instructions in Chevy Chase, Maryland.

Q. All right.

Mr. WEINER. If Your Honor please, I offer this in evidence. I offer Government Exhibit 15 for identification into evidence.

The CLERK. Check dated June 28, 1961, in the amount of $3,250. Government Exhibit 15 marked in evidence.

[Government Exhibit 15 marked in evidence.]

By Mr. WEINER:

Q. Government Exhibit 15—First Continental Savings and Loan Association, Inc., Chevy Chase, Maryland, June 28, 1961, pay the sum of $3,250 to the order of Johnson & Johnson, endorsed Johnson & Johnson with the stamp endorsement of "Exchange and Savings Bank, Berlin, Maryland, Raymond I. Davis, Cashier."

The second half of the voucher reads "6–28–61, Leisure City Funds. Legal $3,250."

Can you tell us how this was recorded on the books of the First Continental Savings and Loan Association?—A. This appears to be on cash disbursement sheet 7–102, $3,250 [1001] drawn on National Bank of Bethesda, Chevy Chase and it is charged to account 2016 which is the liability loan account set up in the First Continental Savings.

Q. It is charged against a loan account of First Continental Savings?—A. Yes, sir.

Q. To a loan account to what person or company?—A. This would be the loan to Leisure City, the notation on the voucher said "Leisure City Funds."

Q. This Leisure City that you are referring to, is that the Leisure City Land Corporation?—A. Yes, sir.

* * * * *

Q. You mentioned that these checks were reprints. Did there come a time when you were on the premises of First Continental Savings and Loan Association when you saw reprints of the Johnson speech?—A. Yes.

Q. When was that?—A. In early summer of 1960.

Q. Did you observe them being used on the premises of First Continental Savings and Loan Association?—A. I did.

Q. In what manner were these reprints used?—A. The staff was assigned the job of underlining in red or circling in red the pertinent points of the speech and these speeches were then enclosed with mailings going out to solicit deposits for the association.

Q. You mentioned salesmen. Telephone salesmen that the association had. Did any of those men come to the Maryland office when you were transferred?

* * * * *

Mr. WEINER. What, if any other use, was made of these reprints?

The WITNESS. They were used by the salesmen in Chevy Chase to show to customers who walked in.

[1002] By Mr. WEINER:

Q. Under any particular circumstances?—A. The first question that was usually asked by a potential depositor was, "Are you Federally"——

Mr. DOUB. Object, Your Honor.

Mr. TYDINGS. On what ground?

Mr. DOUB. He is not talking about a specific conversation. He is just talking and generalizing. It is the kind of thing that is almost impossible——

The COURT. He can say whether it happened once or several times. Let him finish the answer and then you can move to strike if he does not tie it in.

Go ahead.

The WITNESS. That the first question asked was, Are you Federally insured, and the salesmen used the speech and the underlining of the pertinent points to show that, to discredit the Federal Savings and Loan Insurance Corporation.

By Mr. WEINER:

Q. Did this happen once or more than once?—A. Frequently.

* * * * *

Q. Did you have any discussions with Mr. Edlin with respect to the pending indictment after this storeroom incident you described yesterday?—A. Yes.

Q. What took place during these discussions?—A. There again Mr. Edlin was saying to me in substance that we had nothing to fear on the indictment; that we had friends on the Hill that were interested in our cause.

Q. Did you have any conversations with Mr. Edlin with respect to the pending indictment subsequent to the national elections of November, 1960?—A. Yes, sir.

Q. Can you tell us the substance of those conversations?—[1003] A. The substance was the same for the most part but there were references to "Bobby."

* * * * *

Q. Can you recall what Mr. Edlin said to you?—A. Not specifically; only in substance.

Q. What was the substance of what he said to you?—A. That we were now going to the top.

Q. Did he mention anyone else by name? Did Mr. Edlin mention anyone else's name in these conversations?—A. He stated Congressman Johnson and Congressman Boykin were owed political favors by the Kennedys.

Mr. WILLIAMS. Will you fix that, please, in point of time?

Mr. WEINER. Can you fix the time when this was said?

The WITNESS. I cannot fix it exactly.

The COURT. Well, can you say, not by a day necessarily, was it in the first half of 1961 or the second half of 1961 or was it in some month? Can you fix it by month?

The WITNESS. I can identify it as being the first quarter of 1961.

* * * * *

Q. Now, can you tell, Mr. Rains, whether you ever had any occasion to be in Congressman Johnson's office after the first time that you mentioned earlier in your testimony?—A. Yes.

Q. When?—A. Mid summer 1961.

Q. Tell us about that.—A. I was called by Mr. Edlin on the telephone and he stated that the topside had heard the situation with regard to our indictment but they had one question that they wanted to ask. And this related to the First Colony Loan to Albert Cassell. And the question was how could you lend money that you did not have.

The pattern of the loan was that First Colony was to [1004] lend Cassell $400,000 approximately, with $150,000 being paid out at the first go-around.

Q. What do you mean by that?—A. The entire amount of the $400,000 was not to be paid out immediately. His first draw was to be $150,000.

Q. What was to happen with that $150,000?—A. It was a normal payout under the loan to Cassell. Under the loan agreement Cassell was to pay a total of some $300,000 and interest and commissions and Mr. Cassell was to repay the Association $150,000 at the time of the $150,000 payout. And the question was raised, "How could you pay out $150,000 if you did not have $150,000 in your bank account at that time?"

Q. As related to you by Mr. Edlin?—A. Yes. And he asked me what was the situation?

Q. The situation of what?—A. The cash situation at the time of the payout.

Q. Of what company?—A. First Colony Savings and Loan.

Q. What did you do?—A. I pulled the bank statement of that period. This was in December of 1958. The bank statement reflected $152,000 in the bank as of the day before the transaction and $152,000 in the bank the day after the transaction. This was to be presented in evidence that sufficient funds were in First Colony to make the payout.

He asked me—Mr. Edlin asked me to make a photostat of the bank statement and at the same time to bundle up some 25

or 30 sales contracts of persons who had purchased lots from Mr. Cassell in his development and that he and Mr. Robinson would be out to pick me up and we were going to take this information to Congressman Johnson's office.

Q. What, if anything happened?—A. They picked me up and took the data to Congressman Johnson's office. They went into his office. He was a few minutes late in arriving. [1005] When he did arrive, the bank statement was shown to him and the Cassell contracts were shown to him and Mr. Edlin made a statement as to the validity of the Cassell loan and that these contracts were proof that it was a good loan and the bank statement was proof that funds had been on hand to make the initial payout.

Q. Then what happened?—A. Congressman Johnson called Congressman Boykin down to the office.

Q. What happened then?—A. There was a discussion between Congressman Johnson and Congressman Boykin as to the best approach to Attorney General Robert Kennedy then on behalf of Mr. Edlin and the others under indictment, to have the indictment dismissed. He stated what he intended to say, that Mr. Edlin was an honest man.

Q. Who is "he"?—A. Congressman Johnson. That Mr. Edlin was an honest man engaged in an honest effort. He had not intended to defraud anyone and that the indictment should be dismissed.

Q. Was there any conversation as to whether they had been to see the Attorney General before that meeting that you were at?—A. I do not recall that. The main conversation was whether or not the two Congressmen would go to see the Attorney General together or separately.

Q. What, if anything, did Mr. Edlin say?—A. Mr. Edlin did not say much but toward the end he stated that, words to the effect, "I have had it. How can I do a job on this land development unless you get this monkey off my back?"

Q. I direct your attention to November or December, 1961 and I ask you if you happened to have overheard any conversation between Mr. Edlin and Mr. Robinson?—A. Yes, sir.

Q. And what was that conversation?—A. This was during a period when the press was lambasting the independent savings and loans and Mr. Edlin was quite concerned about First Continental Savings.

[1006] Mr. DOUB. When was that?

Mr. WEINER. Can you tell us about when that was?

The WITNESS. It was in the latter part of 1961.

By Mr. WEINER:

Q. Tell us about the conversation.—A. Congressman Johnson was overseas and he was anxious to have the Congressman return.

Q. Who was anxious?—A. Edlin, I do not know any of the details as to what the Congressman could have done.

Q. What did you hear in this conversation?—A. Edlin was quite disturbed and he blurted out, "We have got to get that s.o.b. back here. We have paid him enough money." The "s.o.b." was not said detrimentally, it was just an explosion.

Mr. WILLIAMS. Was not said detrimentally, is that it?

The WITNESS. Was not said detrimentally.

Mr. DOUB. Just affectionately.

By Mr. WEINER:

Q. Now, did there come a time shortly after this conversation when you overheard any plans being made for any trip by Mr. Edlin and/or Mr. Robinson?—A. The only trip that I recall in that period was a flurry of excitement of telephoning to Mobile and they both went, Robinson and Edlin, went to Mobile.

Q. Mobile what?—A. Alabama.

* * * * *

Thereupon RAYMOND J. DAVIS, a witness, having been first duly sworn, was examined and testified as follows:

The CLERK. State your name.

[1007] The WITNESS. Raymond J. Davis.

The CLERK. Take the stand, Mr. Davis.

The COURT. Now, the next witness can be kept in the grand jury room.

Mr. TYDINGS. The next witness is up here, Your Honor.

DIRECT EXAMINATION

By Mr. MARION:

Q. Mr. Davis, where do you reside?—A. In Berlin, I suppose you could say.

Q. Berlin, Maryland.—A. We say Berlin, Eastern Shore.

Q. By whom are you employed?—A. Exchange and Savings Bank.

Q. That is the Exchange and Savings Bank of Berlin, Maryland?—A. Yes, sir.

Q. And you are the cashier and the officer-in-charge of that bank, are you?—A. Yes.

Q. You are appearing here today pursuant to a subpoena, is that correct?

* * * * *

Mr. MARION. Perhaps I could speed things up by leading the witness to references to the specific ledger cards if there is no objection.

Mr. WILLIAMS. Your Honor, I assume these ledger cards are being offered simpyl to show that these particular checks were deposited in Mr. Johnson's account. As far as we are concerned, we will stipulate to that. I do not know how Mr. Doub feels about it.

Mr. DOUB. Anything the bank records show, certainly.

* * * * *

[1008] Mr. WILLIAMS. Your Honor, may I say for the record—I would like the record to show, Your Honor, that each time that the Government has asked the Defendant Boykin, through his counsel, to stipulate in order to avoid the necessity of proof, we have agreed to do so immediately and I will willingly stipulate to the admissibility of these records without the necessity of proof.

The COURT. I will tell the jury—the jury are not to consider that anyone has delayed the case by refusal to stipulate to anything nor has the Government delayed the case by proving facts as to which the defendants might have been willing to stipulate. I try to make that even for everyone. That is not the case. We are trying to get the facts. I am trying to speed the trial up and no doubt each person wants to speed the trial up as fast as he can consistent with the interests of the side he represents and we will try to keep the ball rolling.

* * * * *

Mr. MARION. The next check is a check dated March 31. 1961, drawn on the account of W. L. Robinson, Industrial National Bank of Miami, Florida, pay to the order of Johnson & Johnson, $800. The check is endorsed "Johnson & Johnson" and bears a bank stamp of the Exchange and Savings Bank, April 7, 1961. And included with that is a deposit slip of the Exchange and Savings Bank of Berlin deposited by

Thomas F. Johnson, Special Account No. 1, April 7, 1961, $800.00.

The records of the Exchange and Savings Bank Ledger Sheet No. 56, indicates that a deposit of $800 was made to the Special Account of Thomas F. Johnson on April 7, 1961.

We offer the photostatic copy and the deposit slip in reference to that check.

The CLERK. Government Exhibit 62 marked in evidence.

[Government Exhibit 62 marked in evidence.]

* * * * *

[1009] Mr. MARION. The next one is check drawn on the account of W. L. Robinson, Office Account, at the Industrial National Bank of Miami, Florida, check is dated August 4, 1961, pay to the order of Johnson & Johnson, $2,000 check is endorsed "Deposit only" Johnson & Johnson, and bears an impression of the bank stamp of the Exchange and Savings Bank August 7, 1961. With that is a deposit slip of the Exchange and Savings Bank deposited by Thomas F. Johnson, Special Account No. 1, August 7, 1961, $2,000. Ledger sheet No. 57 of the Exchange and Savings Bank, the account of Thomas F. Johnson, Special Account, indicates a deposit of $2,000 made on August 7, 1961.

The CLERK. Government exhibit 67 marked in evidence.

[Government Exhibit 67 marked in evidence.]

Mr. MARION. The next exhibit which I propose to offer, if Your Honor please, the microfilm was too blurred to allow a reproducible photostatic copy. I think that another witness will produce a photostatic copy of the check which we are dealing in this instance, and I would merely offer on this occasion the deposit slip of the Exchange and Savings Bank of Berlin deposited by Thomas F. Johnson, Special Account No. 1, September 19, 1961, a check in the amount of $1,500 and note that the ledger sheet of the Exchange and Savings Bank, Special Account of Thomas F. Johnson shows a deposit of $1,500 on September 19, 1961.

The CLERK. Government Exhibit 68 marked in evidence.

[Government Exhibit 68 marked in evidence.]

By Mr. MARION:

Q. Now, Mr. Davis, would you state whether or not Congressman Johnson was allowed immediate credit by your bank on these checks which were deposited by him to his account?—A. He was.

Q. And why was he allowed immediate credit on his [1010] checks which he deposited?—A. Any depositor of 25 years good standing would be allowed the same thing.

Q. Was he able to, if he so desired, to withdraw from his account the amount of a check which was deposited to his account?—A. He was.

Q. Even though it may have been drawn on a bank in Florida?—A. He was.

Q. And he could have drawn that immediately upon his depositing such a check?—A. After the good standing that he has, yes.

Q. This was not a special favor accorded to him?—A. Not to him any more than any other customer of good standing.

Q. This is done for anyone that the bank knows as a member of the community?—A. That is right.

* * * * *

REDIRECT EXAMINATION

By Mr. MARION:

Q. Mr. Davis, if you have a depositor who is unknown to the bank or comes in unknown to the bank or who is not in good standing and he brings you a check on a Florida bank for $800, would you let him draw that $800 out as soon as it is deposited in his account?—A. No.

Q. Conversely, if that man were Congressman Johnson or some depositor in good standing, could he draw that $800 out?—A. Sure.

Q. Before the check has been processed?—A. Sure.

* * * * *

Thereupon MARY B. MITCHELL a witness, having been duly sworn, was examined and testified as follows:

[1011] The CLERK. State your name.

The WITNESS. Mary B. Mitchell.

The CLERK. Take the stand, please.

DIRECT EXAMINATION

By Mr. WEINER:

Q. Tell the jury your address.—A. 1840 Caribbean Boulevard, Miami Beach, Florida.

Q. And your occupation?—A. Vice president and cashier of the Industrial National Bank of Miami.

Q. Of the Industrial Bank of Miami?—A. Industrial National Bank of Miami, yes.

Q. As vice president and cashier, do you have any duties with respect to the Industrial National Bank?—A. I do.

Q. What are they?—A. I supervise the operations of the bank and of the personnel.

Q. Now, you have been asked to bring here today by subpoena certain records of your bank with respect to an account or accounts in the name of W. L. Robinson. Now, directing your attention to the years 1960 and 1961, did your bank have an account or accounts in the name of W. L. Robinson?—A. We did.

* * * * *

Q. Can you tell us whether the regular account of Mr. Robinson shows a check of March 31, 1961 payable to Johnson & Johnson, in the amount of $800?—A. It does.

Q. And do you have a photostat of that check?—A. I do.

Q. Is that the same check which, the photostat of which was produced through the Exchange and Savings Bank and is marked government exhibit 62.—A. It is.

Q. Now, do you have with you the ledger sheet of Mr. Robinson's regular account for that period?—A. I do.

[1012] Mr. WEINER. If Your Honor please, we would like to offer into evidence the ledger sheet of the regular account of W. L. Robinson, with an opening date of March 31, 1961 as government exhibit 80.

The CLERK. Government exhibit No. 80 marked in evidence.

[Government exhibit 80 marked evidence.]

By Mr. WEINER:

Q. Now, can you tell us what the balance was in Mr. Robinson's regular account on that date March 31, 1960?—A. It was overdrawn $2.84.

Q. You say it was overdrawn $2.84?—A. Yes.

Q. Now, on what date was that $800 check paid by your bank?—A. April 12, 1961.

Q. Now, between March 31, and April 12 of 1961, were there any deposits into this account of Mr. Robinson?—A. There were two: One on April 5 for $200 and one on April 6 for $800.

Q. And do you have with you a copy of that $800 check?—A. I do.

Q. Which was deposited in Mr. Robinson's account on April 6?—A. I do.

Q. And is that a check dated April 5 of 1961?—A. Drawn by the First Continental Savings and Loan Association on the National Bank of Bethesda.

Q. Check of First Continental Savings and Loan?—A. Yes.

Q. Payable to W. L. Robinson in the amount of $800?—A. Yes.

Q. Is that the same check which is government exhibit 11?—A. Yes.

* * * * *

[1013] Q. Can you tell us whether the records of your bank show check drawn on the office account of Mr. Robinson dated August 4 of 1961 payable to Johnson & Johnson in the amount of $2,000?—A. They do, check No. 1495.

Q. Now, I show you a photostat of record of the Exchange and Savings bank of Berlin which is marked government exhibit 67, and I ask you if this check of W. L. Robinson dated August 4, 1961, payable to Johnson & Johnson in the amount of $2,000, is the check that you have just referred to?—A. Yes.

Q. Tell us the balance—do you have the ledger sheet of that account of Mr. Robinson for the period including August 4?—A. I do.

Mr. WILLIAMS. Is that in evidence?

Mr. WEINER. We would like to offer into evidence as government exhibit 81 the ledger account of W. L. Robinson office account, beginning with the opening entry of July 31, 1961.

The CLERK. Government exhibit 81 marked in evidence.

[Government exhibit No. 81 marked in evidence.]

By Mr. WEINER:

Q. Can you tell us the balance in the W. L. Robinson account—office account on the date of this check, August 4, 1961?—A. $18.82.

Q. $18.82.—A. Yes.

Q. Can you tell us the date on which the $2,000 was paid out on this check?—A. August 10, 1961.

Q. August 10, 1961?—A. Yes.

Q. Can you tell us whether there were any deposits in this office account of Mr. Robinson between August 4 of 1961 and the date on which the $2,000 was paid?—A. There were two. One on August 7 for $85.40.

Q. For $85.40?—A. Yes. One on August 8 for $2,036.00.

[1014] Q. One on August 8 for $2,036.—A. Yes.

Q. These were the only two deposits in that account for that period?—A. Yes.

Q. Do you have with you a photostat—first of all, do you have with you the deposit slip of Mr. Robinson whereby he deposited $2,036?—A. I do.

Q. All right.

Mr. WEINER. Your Honor please, we would like to offer into evidence as Government exhibit 82 the deposit slip of W. L. Robinson dated August 8, 1961.

The CLERK. Government exhibit 82 marked in evidence.

[Government exhibit No. 82 marked in evidence.]

Mr. WEINER. And this shows that the $2,036 deposit was made up of a deposit of a $2,000 check and a $36.00 check, is that right?—A. Yes.

Q. Do you have a photostat of the $2,000 check which was deposited into that account?—A. No, sir.

Q. Can you tell us why you do not have that?—A. The reel of microfilm was lost or missent by the Recordak Corporation and has never been returned to us. We tried to trace it back through our records and we have details as to description but we have no pictures.

Q. Now, I show you an original check drawn on the Leisure City Land Corporation dated August 7, 1961 which is the government exhibit 16 and in the amount of $2,000 and I ask you whether you can tell us if that is the check which was deposited into the account?—A. That is our endorsement, yes, sir.

Q. Does it show the date?—A. It is over-printed but it appears to be August of 1961. I cannot make out the middle date.

* * * * *

Q. I next ask you whether your records show a check drawn on the regular account of Mr. W. L. Robin-[1015]son, dated September 12, 1960, in the amount of $1,500 payable to Johnson & Johnson, attorneys?—A. I do. It is check No. 1510.

Q. Check 1510.—A. Yes.

Q. Dated September 12, 1961?—A. Yes.

Q. Do you also have with you the ledger sheet of this account of Mr. Robinson for that period?—A. Yes.

Mr. WEINER. If Your Honor please, this, too, is a check out previously in evidence in any form. I would like to offer into evidence as Government exhibit 83 a check dated September

12, 1961, to the order of Johnson & Johnson, attorneys. Amount $1500.

The CLERK. Government exhibit 83 marked in evidence.

[Government exhibit 83 marked in evidence.]

The COURT. That is the one that ties in with deposit slip 68.

Mr. TYDINGS. That is correct, Your Honor.

Mr. WEINER. I would like to offer into evidence as government exhibit 84 two sheets, two ledger sheets of the regular account of W. L. Robinson, the first beginning August 31, 1961, the second beginning September 29, 1961.

The CLERK. Government exhibit 84 marked in evidence.

[Government exhibit 84 marked in evidence.]

* * * * *

Mr. WEINER. Government exhibit 83 is a check dated September 12, 1961, pay to the order of Johnson and Johnson, attorneys, $1500 signed W. L. Robinson, endorsed Johnson and Johnson, attorneys, Thomas F. Johnson.

By Mr. WEINER:

Q. Now, Mrs. Mitchell, do the ledger sheets show what balance was in Mrs. Robinson's (sic) account on September 12 of 1961?—A. They do.

[1016] Q. And what was the balance in that account on that date?—A. $72.18.

Q. $72.18?—A. Yes.

Q. On what date was that check of September 12th paid out by your bank?—A. October 6.

Q. October 6. Now, between September 12, the date of the check, and October 6, the date on which the check was paid out, were there any deposits into Mr. Robinson's bank account?—A. Yes, there were two.

Q. There were two?—A. Those on the 21st day of September, one for $148.50 and the other one for $1,498.00.

Q. There was a deposit—one for $140-something and one for $1,498.00?—A. That is right.

Q. Do you have with you a copy of the check which was deposited for which the $1,498 credit was given?—A. I do.

Q. Now, was that a $1,498 check, or was that a check in a larger amount?—A. That was a check for $1500 drawn on the Gotham Bank by the Charles County Land Company, and it was sent as a collection item. The Gotham Bank made a dollar exchange charge and our bank made a dollar exchange charge.

Q. The $1498 was a $1,500 check from which the $2 was deducted?—A. Yes.

* * * * *

Mr. MARION. The Government calls Mr. T. Lamar Caudle.

T. LAMAR CAUDLE a witness, having been first sworn, was examined and testified for the record as follows:

The CLERK. State your full name for the record.

The WITNESS. Theron Lamar Caudle.

The CLERK. Take the stand, please.

[1017] DIRECT EXAMINATION

By Mr. MARION:

Q. Mr. Caudle, where do you reside?—A. Waynesboro, North Carolina.

Q. Are you an attorney?—A. I am an attorney.

Q. Do you practice law in Waynesboro, North Carolina?—A. That is my home town. I was born there and I practice law there, yes, sir.

Q. Waynesboro is about fifty or sixty miles southeast of Charlotte, North Carolina, is it not?—A. Fifty-three.

Q. Near the South Carolina border?—A. It is about fourteen miles from South Carolina.

Q. Now, Mr. Caudle, just by way of background, in 1940 you were appointed a United States Attorney for the Western District of North Carolina, were you not?—A. Yes, I was nominated by Mr. Roosevelt.

Q. And served in that position until 1945?—A. Yes, I was renominated again. It is a four-year term. I was renominated again by the President in 1945 and confirmed after the nomination, of course.

Q. In 1945 you were appointed Assistant Attorney General in charge of the criminal division of the Department of Justice, were you not?—A. Yes, by President Truman, by Mr. Clark.

Q. And remained in that specific capacity until 1947 when you became the Assistant Attorney General in charge of the tax division?—A. In September, 1947 and then he ordered me transferred as supervisor of the Tax Division.

Q. How long did you remain as attorney general in charge of the Tax Division of the Department of Justice?—A. Four years.

Q. Until when?—A. November 16 at 3 o'clock in 1951.

* * * * *

[1018] The COURT. I will sustain the objection unless you have any possible admissible conversation that you can make the proffer. You cannot talk about conversations between them, because the relationship was either attorney-client or so close to attorney-client that we are now going to treat it as such unless you want to treat it different. You can have him testify to what, if anything, he did, not as to what, if anything, Mr. Edlin may have told him or said to him or may not have said. I don't intimate that Mr. Edlin did say or didn't say. Go ahead.

By Mr. MARION:

Q. Did you have occasion thereafter to meet Congressman Johnson?—A. I did.

Q. Where did you meet him?—A. In his office.

Q. In his congressional office?—A. Yes, in his Congressional office.

Q. In Washington?—A. In Washington, D.C.

Q. In the Old House Office Building?—A. Old House Office Building.

Q. Who was present with you at the time you met him?—A. Mr. Edlin and Mr. Robinson.

Q. Do you recall what, if anything, took place?

Mr. DOUB. Would you have him first identify the time? When was this?

By Mr. MARION:

Q. Do you recall when it was in relation to when Congress reconvened?

The COURT. Let him say if he can do it. Then you can lead him to it if he doesn't remember.

The WITNESS. Congress was in session at the time I met Congressman Johnson.

By Mr. MARION:

[1019] Q. Can you be more specific as to the time of this meeting?—A. Well, it was prior to March, March 1961. I would say—I just forget the date I met the gentleman.

The COURT. But you put it between January 1961 and March 1961?—A. Yes, sir.

Q. What, if anything, took place when you first met Congressman Johnson?—A. There was discussion in the presence of Mr. Edlin and Mr. Robinson about the indictment that in-

volved Mr. Edlin, his sister, First Colony Savings and Loan Association and Mr. Jackson Rains.

Q. Can you recall the substance of that discussion?—A. The substance of that discussion, the first one?

Q. Yes, sir.—A. I told—well, it was either this one or the next one. I can't remember what specific time I was there. But I explained to Mr. Johnson——

Mr. DOUB. Is this the first time or the second time?

The WITNESS. I can't tell which one it was. I don't know.

By Mr. MARION:

Q. Either the first or second time that you were there?—A. Yes, sir.

The COURT. How soon after this first time was the second time? Was it a day or two, a week or two, a month or two, or longer?

The WITNESS. Well, I would say it would be probably a few days from the first time, Your Honor. I don't know. Now, what do you want me to tell you?

Mr. DOUB. Let me help you. Were the same people there the second time as the first time?

The WITNESS. Yes, sir.

By Mr. MARION:

Q. All right. You were starting to say what you explained [1020] to Congressman Johnson at that meeting.—A. I explained to Congressman Johnson that an indictment was an instrument where the grand jury found probably (sic) cause to allegations of some violation of the Federal law or a state law, for that matter, and that it was extremely difficult and very hard, unless it could be overwhelmingly shown that the Government was in error, to have the indictment once it was returned dismissed; that it was very rarely ever when I was associated with the Department of Justice that an indictment was dismissed, but indictments were dismissed when it was conclusively shown that the Government was in error by its own attorneys, and they were dismissed.

Q. What, if anything, did Congressman Johnson say when you advised him of that?—A. Congressman Johnson, from my conversation with him, we didn't go into the merits at that time, but he was very much familiar with the subject. I had been with the subject off and on.

Q. What did he say when you advised him what you just indicated?—A. He said that was true; that it was a very difficult

thing, even in the state courts, after the indictment had been returned because the grand jury had found probable cause.

Q. What, if anything, did Mr. Edlin say at that time?—A. I do not know what Mr. Edlin said at that time. Mr. Johnson was a lawyer and I was a lawyer. He listened a great deal, particular when I described again—I had done it before—the procedures that ought to be followed to bring this thing into focus. The indictment contained 31 paragraphs. It was a long instrument, and any attorney reading it would have to read it over and over and then have many conferences before the thing would become in focus to him, in my opinion. I told Mr. Johnson that, and I told Mr. Edlin that.

* * * * *

The CLERK. Resume the stand, Mr. Caudle. You are still under oath, sir.

[1021] Thereupon T. LAMAR CAUDLE a witness, having been previously sworn, resumed his testimony further as follows:

* * * * *

The COURT. Now, before he answers, let me make this caution that I did say I would make to Mr. Caudle. Just remember to answer the questions that are put to you because you realize, as well as we do, that there are certain border lines of privilege, certain things you can testify to and certain things that you can't.

* * * * *

Q. All right, Mr. Caudle, let me withdraw that question.

How many conferences do you recall sitting in on in Congressman Johnson's office in connection with this particular matter?—A. That was probably three or four maybe on this subject.

Q. And who were present during those meetings as best you can recall?—A. Mr. Edlin was present; Mr. Robinson was present; Congressman Johnson was present and I was present.

Q. Did there come a time in any of those conferences when Congressman Boykin was present?—A. I do not think Congressman Boykin was in any of these early conferences with Congressman Johnson.

Q. You speak of early conferences. What do you mean by early conferences?—A. I mean when we began to discuss the

question of the subject matter which you brought to my attention a moment ago.

Q. All right. Now, as a result of those three or four conferences, was any decision reached as to something which you would do?—A. Yes, sir.

Q. What was that?—A. That, with the assistance of Mr. [1022] Robinson, we would analyze and prepare an analysis of the 31 paragraphed indictment.

Q. And with whom did you discuss that?—A. Congressman Johnson in the presence of Mr. Edlin and Mr. Robinson.

Q. What do you recall Congressman Johnson saying about the preparation of such an analysis, if anything?—A. He thought that my idea about the matter is proper and that it ought to be done.

Q. And what, if anything, did he ask you to do?—A. He asked me, would I and Mr. Robinson work on the matter and prepare it? I told him I would but it could not be done in Washington because there were no facilities there to do the work.

Q. And what do you mean by "no facilities" there to do the work?—A. There was not any legal secretary.

Q. Where?—A. In the First Continental Savings and Loan Association. There was no office and I simply did not have any place to work and neither did Mr. Robinson have on the matter of this indictment analysis.

Q. And so what, if anything, was done as a result of that conversation?—A. In consequence of that conversation Mr. Robinson and I flew to Miami, Florida.

Q. And can you recall when it was that you flew to Miami, Florida?—A. Yes, it was around about March 18, 1961. We were there for four days, if I remember.

Q. And what did you do while you were in Miami?—A. Went to Mr. Robinson's office where he had a very able secretary and he was very well saturated, I would say, with the facts so he was to dictate it. I was to be present and we were to be as minute and accurate as we could on the facts as to each paragraph, and that went on all day and into the night as long as we could take it, the next day, the next night, the next day and the next night. Then it took a day as I remember for it all to be typewritten.

[1023] Q. And what was your function in connection with that? What actually did you have to do with it?—A. I was

really supervising the analysis and you might say I was co-author of it with Mr. Robinson.

Q. Was a draft being prepared as it was being dictated?—A. I think so, yes, sir.

Q. And what, if anything, to the best of your recollection was done with copies of that draft as it was being prepared?—A. I think Mr. Robinson furnished Congressman Johnson, the best I can recall, with the copy.

Q. Do you recall approximately how long you stayed in Miami?—A. Yes, sir, we stayed there until March 18 to the 23rd as far as I can recall.

* * * * *

Q. What, if anything, was taken with you on your return to Washington?—A. I think we brought back the original analysis that the secretary prepared.

Q. What, if anything was done with that analysis upon your return to Washington?—A. You mean what we did with it?

Q. Yes.—A. Gave it to Congressman Johnson in his office.

Q. Who was present when you gave it to Congressman Johnson in his office?—A. I know that Mr. Robinson and I were together, and whether Mr. Edlin was along at this time, I do not remember.

Q. All right. What, if any conversation took place at that time?—A. Congressman Johnson said that he wanted to study it thoroughly and he would talk with us again about it. As I remember, the best I can remember.

Q. Did you have occasion to discuss it further with him?—A. Yes, sir.

Q. Do you recall how soon thereafter that was?—A. I do not remember but it was pretty shortly after that. He said he studied it very carefully. He was very much impressed with it. [1024] Q. Who was present on this occasion when he said he had studied it?—A. Mr. Robinson was present I remember, and Mr. Edlin.

Q. Who else was present, if any one?—A. Congressman Boykin came in along about that time for a few minutes and he would not stay but a few minutes, maybe once or twice. Could have been three times. I do not know.

* * * * *

A. Mr. Boykin came in for a few minutes. He never stayed long. I think he came at least two times if I can remember.

I do not think—He spoke to everybody in the office as he usually does and I did undertake to explain this thing to him, a long analysis on a 31-paragraph—31 page indictment, and it was prepared for the purpose of presenting to the Department of Justice for it to be reviewed and evaluated on its merits.

Q. How did you know that?—A. How did I know that?

Q. Yes.—A. Well, I knew. I had told Mr. Edlin and I had told Mr. Robinson and I told Mr. Johnson that the Justice Department was an institution of record and that the only way that the defense of Mr. Edlin and his sister and First Colony, and Mr. Jackson Rains could be brought into force, this analysis would have to be prepared and should be left with the Justice Department and those in the Criminal Division who would administer the statute. They would be the ones that would have to study it and evaluate it to get any action on the merits of the matter.

Q. All right, now, in the conversation, in the course of this meeting where you say Congressman Johnson told you he had studied the analysis and thought it was ably done, what else was discussed, if you can recall at that particular conference?—A. I declare I cannot remember that particular conference.

Q. What, if anything, was discussed about the Department of Justice, and who might be contacted there?—A. [1025] Oh, Congressman Boykin said that he knew the Attorney General, Mr. Kennedy, and as I understood, Congressman Johnson did not know him, and that they would take it over and present it to Mr. Kennedy, that they would go over and have a conference with the Attorney General at his level because they were members of the House.

Q. Because they were Congressmen?—A. Yes, that is right.

Q. Do you know whether, shortly thereafter, after that particular conference, anyone did go to the Department of Justice to see the Attorney General?—A. Yes, sir.

Q. How do you know that?—A. Because Mr. Edlin and Mr. Robinson kept up with Congressman Johnson's office, one of the two, and they wanted to know what was the reaction, and the reception they received on the subject and so we went back to Congressman Johnson's office.

Q. Who was present when you went back to Congressman Johnson's office?—A. I know Congressman Johnson was there and, of course, his secretary and force were out of the office, Mr. Robinson and Mr. Edlin were there.

Q. Was Congressman Boykin there?—A. I think Congressman Boykin came down a few minutes after we were there for a little while.

Q. What, if anything was said during that time?

Mr. WILLIAMS. During what time?

Mr. MARION. During the time when Congressman Boykin, Mr. Edlin and Mr. Robinson were present with you.

Mr. WILLIAMS. At any time that the four were there?

The COURT. It was, altogether, five.

Mr. MARION. The four defendants and Mr. Caudle.

The COURT. Mr. Johnson, Mr. Boykin, Mr. Edlin and Mr. Robinson were there with the witness.

[1026] The WITNESS. Mr. Boykin stated that Mr. Kennedy was very patient with them. That he knew very little about the facts if any at all, but Mr. Johnson was the one who presented it to Mr. Kennedy, and I recall that Congressman Boykin said that Mr. Johnson made a very able presentation of the matter and that he just sat and listened.

* * * * *

Q. Mr. Caudle, I show you a document consisting of many pages and ask if you can identify part of it?—A. Yes, sir, this is the analysis or memorandum or whatever you want to describe it. The work that Mr. Robinson and I did down in his office in Miami.

Q. All right. Now, there appears to be a letter on the top. Do you know anything about that letter?—A. No, sir.

Q. And under the letter there appear to be two typewritten pages. Were those two pages attached when you delivered it to Congressman Johnson?—A. Not that I remember, sir; not that I remember.

Q. And also included in the body of the memorandum there appear to be several pages typed on a different typewriter. Were those pages typed on a different typewriter?

* * * * *

The CLERK. Government Exhibit 86 marked for identification.

[Government exhibit 86 was marked for identification.]

The COURT. No. 86 for identification. Would you mark also the top letter?

You are not entitled to it yet, Mr. Doub. It is still being identified. You will see it before it is offered in evidence. I think we want to get some more markings.

Mr. Marion, would you let Mrs. Zielinski mark the letter on the top 86–A for identification, and the two pages underneath the letter to which you refer, mark that 86–B for identification, and then you started to refer to some [1027] other pages, and I think those other pages which are in different type and to which you wish to call his attention should be designated 86–C, and if they are altogether, that will be easy. If they are scattered, mark them 86–C–1, C–2, C–3 and so forth so that we will know what the witness is talking about.

* * * * *

Mr. MARION. I must go one step further and go through the different type.

Just so the record will be clear, I am going to ask him about pages 9, 11, 15, 23, 24, 26 and 29.

The COURT. Are they the ones in different type that you speak of?

Mr. MARION. Yes.

The COURT. So they are the ones that will be 86–C and these numbers can just go along with it. 86–C 9, 11, 15, 23, 24, 26, 29, giving the page numbers. Are all a part of 86–C.

[Government exhibit 86–C was marked for identification.]

* * * * *

Mr. MARION. The Government calls Mr. Louis Goldman.

[The jury returned to the courtroom.]

Thereupon, LOUIS D. GOLDMAN was called as a witness by and on behalf of the Government, being first duly sworn, was examined and testified as follows:

The CLERK. State your name for the record.

The WITNESS. Louis D. Goldman.

[1028] The CLERK. How do you spell Louis?

The WITNESS. L-o-u-i-s.

The CLERK. Louis D. Goldman. Take the stand, please.

DIRECT EXAMINATION

By Mr. MARION:

Q. Mr. Goldman, I think if you will pull the microphone in a little closer and keep your voice up.

Where do you live, Mr. Goldman?—A. 1605 Bay Road, Miami Beach, Florida.

Q. And what is your occupation, Mr. Goldman, at the present

time?—A. I am a teacher of business law at the Dade County Board of Public Instruction, Miami, Florida.

Q. And are you also an attorney, Mr. Goldman?—A. Yes, sir.

* * * * *

Q. You mentioned there was a third occasion when you were present where legal matters were discussed?—A. Yes, in the Congressman's office there had been a discussion prior to going there, that he was to examine certain loan agreements at this particular time for a loan that was pending in First Colony.

Q. Pending to whom?—A. To Cassell.

Q. A. I. Cassell?—A. Cassell Land Company—something, and Mr. Edlin wanted Congressman Johnson to review it, check it out and see that everything was all right with reference to the agreements to make sure that, if there was a default, if there should be a default, why the Association would be protected.

Q. Now, did you hear any discussion between—any discussion involving either Mr. Edlin or Mr. Robinson, relating to the submission of those loans to Congressman Johnson?—A. Mr. Robinson had brought the loan agree-[1029]ments in a very large red envelop and left it with the Congressman on his desk.

I do not recall any particular discussions with regard to the agreements at that time.

Q. Were there discussions which you participated in with either Mr. Edlin or Mr. Robinson relating to those loans at other times?—A. Yes, I had mentioned the fact to Mr. Edlin that I had been under the impression that they had been reviewed by Mr. Adelberg.

Q. Before or after they had been reviewed by Congressman Johnson?—A. I think they were before and after both.

Q. All right, what was the nature of your discussion with Mr. Edlin?—A. I mentioned the fact that I was under the impression that these loan agreements had been examined by Mr. Adelberg, also an attorney of Baltimore, and why was he giving it to the Congressman to review again.

Mr. Edlin told me that he wanted to make certain that everything was all right. That we would not run into any difficulties if there was any defaults and there had to be a foreclosure and he also mentioned the fact that he wanted to keep Congressman Johnson happy.

Q. And did you have any discussion relating to the same subject with Mr. Robinson?—A. Yes, I had spoken to Mr. Rob-

inson about it. I was curious as to why the agreements were given to the Congressman to review and Mr. Robinson told me that, as he put it, "Ken wanted to make sure that everything is all right. Ken wants to keep the Congressman happy." And "it will probably come in handy for Ken."

Q. Did you have such conversations with Mr. Edlin or Mr. Robinson once or more than once?—A. I think it was more than once.

* * * * *

Q. Now, directing your attention to the year 1961, would you state whether or not you ever heard any state-[1030]ments made either by Mr. Edlin or by Mr. Robinson, or both, relating to the pending indictment against Mr. Edlin?—A. I heard—Mr. Edlin from time to time would say that he had nothing to worry about the indictment.

That his friends on the Hill would take care of it for him and that everything would turn out all right.

Q. Did he indicate anything further in such conversations?—A. No.

Q. Did he indicate anything, either he or Mr. Robinson, in any of those conversations relating to cost?—A. From time to time Mr. Edlin would say that it is costing him a lot of money and that the cost is eating him up.

Mr. DOUB. What was costing him a lot of money? "It," you said.

Mr. MARION. You may answer the question.

The WITNESS. When the discussion about his friends on the Hill were taking care of the matter for him.

By Mr. MARION:

Q. Did you ever hear Mr. Edlin indicate he was going up on the Hill.—A. Yes, occasionally when I was in Washington, or in Chevy Chase, he would leave, and he would sometimes say he is going over on the Hill, and if anyone wanted him, he could be reached at Congressman Johnson's office.

Q. Now, Mr. Goldman, did there ever come a time when you had an opportunity to meet both Congressman Johnson and Congressman Boykin together?—A. In the summer of 1961, yes.

Q. And where did that meeting take place?—A. At a private dining room at the Congressional Hotel.

Q. Would you relate the circumstances of that particular meeting?—A. I had again been brought up to Washington by

Mr. Edlin. I was told to meet him at Congressman Johnson's office.

[1031] I went there. Mr. Edlin, Mr. Robinson and Congressman Johnson were there, and I was told that we were going to have lunch.

We went to the Congressional Hotel. There was a private dining room in the restaurant, and as we entered, a few minutes later Congressman Boykin walked in and Mr. Edlin and Congressman Boykin and Congressman Johnson were having a quiet conversation over on the side.

Mr. Robinson left the room to get a pack of cigarettes and I sat down at the table. They were conversing for a while when all of sudden in a very, very loud voice Mr. Edlin stated words to the effect, "When am I going to get some results? It has been costing me a lot of money and all I have been getting is a lot of talk. I want results."

With that Congressman Boykin stepped back a step, raised his shoulder and said to Mr. Edlin, "How dare you speak to me like that?"

Mr. Johnson, on the other hand, said to him, "Calm down. Take it easy. You know these things take time."

And with that, Congressman Johnson glanced over to me and then Mr. Edlin looked over to me. Mr. Edlin mumbled something and Congressman Johnson and Mr. Edlin left the room.

Congressman Boykin sat down. I got up. I walked around for a while and then Congressman Boykin asked me for my name. I told him who I was. He asked me if I was associated with Mr. Edlin.

I told him that I worked for him.

Then he asked me to "tell me something about yourself."

I said, "There is nothing to tell."

Shortly thereafter Congressman Johnson and Mr. Edlin walked back into the room and shortly behind them [1032] Mr. Robinson came in holding a pack of cigarettes, opening it up.

* * * * *

Q. Now, directing your attention to the late summer or early fall of 1961, I ask you whether or not you had occasion to be in Mr. Edlin's company at the Silver Fox Restaurant when anything unusual occurred?—A. It was a Saturday afternoon.

Mr. Edlin had taken most of the employees to lunch at the Silver Fox.

Q. What is the Silver Fox?—A. The Silver Fox is a restaurant on Wisconsin Avenue in Washington, just the other side of Chevy Chase.

Q. How close is it to 5410?—A. Approximately two or three blocks.

Q. I see.—A. And as we had come out after lunch, we were walking back towards the office of First Continental Savings and Loan when Mr. Edlin had a sad or peculiar expression on his face. I asked him what was wrong, and at that time he told me that he was concerned with the fact that Congressman Boykin and Congressman Johnson were not getting anywheres with his indictment; that it was costing him a lot of money. When I asked him what he meant by that, he stopped for a minute, looked at me, and said, "Forget it." That was the end of that.

* * * * *

[Testimony of Defense Witnesses:]

Mr. DOUB. Mr. Buarque.

Thereupon MANUEL BUARQUE, a witness, having been first duly sworn, was examined and testified as follows:

The CLERK. State your name for the record.

The WITNESS. Manuel Buarque.

The CLERK. Take the stand, please.

[1033] DIRECT EXAMINATION

By Mr. DOUB:

Q. Mr. Buarque, where do you live?—A. 5800—63rd Avenue, Riverdale, Maryland.

Q. Are you originally from the Eastern Shore?—A. I am legally from Dorchester County, Maryland.

Q. During what period of time were you administrative assistant for Congressman Johnson?—A. From January 7, 1959 until through January 2, 1963.

Q. In other words, you were his administrative assistant during the full four years that he was a member of Congress?—A. Yes, sir.

* * * * *

CROSS EXAMINATION

By Mr. WEINER:

* * * * *

Q. Now, Mr. Buarque, let me ask you one more thing about these. In September and October of 1960 Congressman Johnson was campaigning for reelection, wasn't he?—A. Yes.

Q. And during this time that he was campaigning to be reelected, he would go down to his District to do his campaigning, wouldn't he?—A. Very, very rarely while Congress was in session.

Q. Very, very rarely?—A. While Congress was in session, yes, sir.

Q. How often would you say he went down there?—A. On the weekend if he went at all, during the time Congress was in session.

Q. How many times would you say he went in September and October 1960?—A. After Congress.

[1034] Q. In September and October of 1960, in the two months preceding.—A. In the two months he stayed there quite often in the district, yes.

* * * * *

Q. Now, I believe on your direct examination here today you testified that you first met Mr. Heflin when he and Mr. Robinson had been in Congressman Johnson's inner office, and they came out, and Congressman Johnson at that time introduced you to Mr. Heflin; do you remember that?—A. I recall that.

Q. Do you remember when the FBI interviewed you on January 11th of 1962 and asked you when you first met Mr. Robinson you claimed to them that you did not meet Mr. Robinson until the spring of 1961, some nine months later, when Mr. Robinson had some dealings with some land in Charles County?—A. I don't recall that, sir.

Q. You don't recall that?—A. No, sir, I do not recall that at all.

Q. Do you deny that you told the FBI when they first interviewed you on January 11, 1962, that you had not met Mr. Robinson until the spring after the speech had been delivered?—A. I recall asking if these gentlemen took shorthand, and they denied that they did, and they told me that they didn't feel that their statements were verbatim. I deny that categorically, yes.

Q. You deny telling them that?—A. I deny telling them that, yes.

Q. And do you remember being asked about this when you appeared before the grand jury in April of 1962?—A. About?

Q. About when you first met Mr. Robinson and Mr. Edlin?—A. I probably was asked. I think the whole testimony would have to be divulged all the way through to get the proper perspective on it.

Q. Do you remember telling them that?—A. I don't re- [1035] member what you said. I remember testifying before the grand jury, yes, sir.

Q. Do you remember telling the grand jury at that time that you first met Mr. Robinson and Mr. Edlin, as you did today, in the spring of 1960, in connection with the bridge, but that neither Mr. Robinson nor Mr. Edlin were present in Congressman Johnson's office during the period prior to the speech of Congressman Johnson on June 30, 1960?—A. I don't recall that, sir.

Q. Do you remember this question? Do you remember whether you were asked this question, on pages 13, 14 and 15 of the grand jury transcript:

> Question. When did you first meet Mr. William L. Robinson?
>
> Answer. I met Mr. Robinson and even Mr. Edlin, it (2688) was either the latter part of April or the latter part of March or the first part of April 1960. They came to the office with an attorney in Washington by the name of Marshall Diggs and another one, Taylor Bryant, and I believe it was in connection with the Assateague Bridge. He told the Congressman he was acting as an agent for the Assateague group. He came up in the District and worked with the Congressman on those matters. They were trying to get this group to underwrite a bond of some $6.1 million, as I recall it. I don't know what happened. Anyway, it didn't occur, but that is the first time I met either one of them. It was in connection with the Assateague Bridge plan.
>
> Question. Were they friends of Congressman Johnson's or just close acquaintances?
>
> Answer. Who was that?
>
> Question. Edlin and Robinson.
>
> Answer. That was the first time I had ever seen them.

[1036] Question. How about Congressman Johnson as far as you know?

Answer. I don't know. That is the first time I met them.

Question. Did you introduce them to Congressman Johnson?

Answer. No, they introduced themselves. One said, "I am Mr. Kenneth Edlin," and the other one said, "I am Bill Robinson, from Miami, Florida."

Question. Did they both go into the office?

Answer. They were in with Mr. Marshall Diggs, and Mr. Bryant and another one. I don't know what his name was.

Question. They were discussing the Assateague Bridge?

Answer. That is correct.

Question. When was the next time they came to your office? Did they come to your office prior to the Congressman's speech?

Answer. No, I don't recall them, seeing them in the office prior to the speech.

Do you remember being asked that question and giving that answer to the grand jury on April 25, 1962, Mr. Buarque?—A. I probably was if you say so, counsellor.

Q. What is your recollection? Do you recall giving that answer?—A. I recall the testimony I made this morning, that that was the first time I had met them was over the Assateague Bridge. It was.

Q. Now, you produced a draft, Mr. Buarque, which was marked Defendant Johnson's Exhibit 14. Is this the only draft of the speech that was prepared?—A. By me.

[1037] Q. Was this the only draft of the speech prepared by anyone?—A. I don't know about anyone else. This is what I prepared, sir.

Q. You only prepared one draft?—A. I prepared several initial drafts. That was the final composition, the final form that took place.

Q. This was the last draft?—A. Yes, that was the final form that took place.

Q. This Johnson Exhibit 14 contains two holes at the top. Did you extract it from a file before you produced it?—A. I

have a large file of rough drafts, sir. It was taken out and given to Mr. Doub.

Q. You gave him all of those prior drafts?—A. I have a lot of drafts.

Q. And there were prior drafts of this speech that haven't been produced here today?—A. No, there wasn't because they were more or less scratched out on yellow foolscap paper. It wasn't in continuity at all.

Q. And you threw them out?—A. Oh, yes.

Q. That is the only draft?—A. That is a rough draft of the final speech, yes, sir.

Q. Now, Mr. Buarque, in connection with this speech, how many times did you speak to Mr. Heflin over the telephone about it?—A. Over the telephone maybe three times.

Q. Three times. And how many times did Mr. Heflin come to your office to discuss it?—A. Two or three times.

Q. Two or three visits in the office and two or three times over the telephone?—A. Yes, that is correct.

Q. And did he submit you a draft?—A. Well, if he did, I didn't see it.

Q. Wasn't he working on the speech first and then you worked along with him?—A. No.

[1038] Q. I think you mentioned a Mrs. Frances Kiernan in your direct testimony. Did you see her when she came up here to testify on April 10, 1963?—A. I saw her when she entered the door, yes, sir.

Q. Do you recall ever telling Mrs. Kiernan at the time of the speech, "Mr. Heflin is working on the speech, and I am going to work on it with him?"—A. Well, I consider his work on it the furnishing me with certain statistics and facts, which is permissible. On the Hill all congressional assistants use facts and material from wherever they get it. He furnished these facts, and I incorporated them in the speech.

Q. Do you remember telling Mrs. Kiernan that Mr. Heflin is working on the speech, and I am going to work on it with him?—A. No.

Q. Do you deny telling Mrs. Kiernan that?—A. No, I don't deny telling her anything. I know I constructed the speech and he furnished me the facts, between the two of us. As you say, we made the speech, but as far as him furnishing me a draft, it simply isn't so.

Q. Did you ever give him a draft to take out of the office?—A. I didn't give him any draft.

Q. Did he ever take a draft out of the office?—A. If so, I do not know.

Q. You don't know?—A. If he took one out, I do not know, I said, sir.

Q. Nobody else was making any drafts other than you?—A. He furnished me with the facts. He gave me a list of facts he would like to see me incorporate in it, which I did.

Q. Did he give you a list of facts of things he would like incorporated in the speech before you made your first draft?—A. No, he did not.

Q. He gave it to you as you were making the draft?—A. That is correct.

[1039] Q. Now, can you tell us whether or not at the time the drafts were being made and before the speech was delivered it was contemplated that this speech would be reprinted and Mr. Heflin, after it was made, would then order copies of the reprints?—A. I wasn't advised to that effect.

Q. Now, these notes that you made on the draft, you made them while they were still a draft, didn't you?—A. That is correct.

Q. And do you remember—let me read you this note in the lefthand margin of page 5:

"Mr. Hef. telephoned re caption for reprints and reference to King speech"?—A. Yes, he mentioned in one of the telephone calls that he would like to see the caption changed.

Q. Before the speech was delivered?—A. But I didn't change it before it was delivered.

Q. He talked to you about reprints and the caption for reprints before the speech was delivered?—A. Yes, he said he would like to see the caption changed, but we didn't change it at that time.

Q. You mean you were already discussing the caption for reprints at the time the speech was still in draft form and before it was delivered?—A. I discussed this with him, and I told him I would take it up with the Congressman. We discussed it, and he told me he didn't care what we did.

Q. That was before the speech was delivered?—A. The final speech was delivered on the floor. I discussed it with him. I hadn't yet adopted the caption.

Q. The question is: I will ask it again. The discussion with Mr. Heflin—answer this yes or no, please—the discussion with Mr. Heflin with respect to reprints and the caption for reprints occurred before the speech was delivered?—A. Yes, because I thought they were unimportant. The caption was unimportant.

[1040] Q. Now, in speech you say you make no reference to First Colony, but in the text of the speech you (2695) say, do you not, there are exactly three—I think that is the wording of the speech—exactly three institutions under indictment, but none tried. Is that right?—A. That is correct.

Q. And you did some research into determining which associations were under indictment at the time of that speech?—A. I read newspapers.

Q. Did you go back into newspapers?—A. I read something in the newspapers about it, yes.

Q. Did you do that research yourself or did you have the research arm of the Congress help you with that?—A. I did it myself because I get a daily newspaper.

Q. And you found then that there were exactly three institutions under indictment, is that right?—A. Yes.

Q. And you found as to the status of each of them that none of those cases had gone to trial yet, is that right?—A. Oh, yes, I understand an indictment is not guilt.

Q. And when you found these three indictments, these three cases, you knew them, did you not, that First Colony and Mr. Edlin were under indictment at that time?—A. As I said before, I knew that there was indictments, but that didn't imply guilt as far as I was concerned.

Q. The question is, you knew that Mr. Edlin and First Colony were under indictment at that time?—A. I knew First Colony, but not First Continental.

Q. Did you know that Mr. Edlin was under indictment at that time?—A. I knew that First Colony was under indictment. I didn't know that Mr. Edlin was particularly, no.

Q. You didn't know particularly?—A. No.

Q. What do you mean "you didn't know he was under indictment particularly"?—A. I read in the paper that they alleged.

[1041] Q. They alleged he was under indictment?—A. That he was the head of First Colony.

Q. And that he was under indictment in that case?—A. That is correct.

Q. And when you discussed this proposed speech with the Congressman before it was delivered by him on June 30, 1960, did you tell him that Mr. Edlin and First Colony Savings and Loan Association were under indictment?—A. We never discussed that phase of it at all.

Q. Did you ever during any of these times that you saw Mr. Edlin coming through the office have occasion to inform the Congressman that Mr. Edlin was under indictment?—A. No, I didn't inform him of any matter of that nature.

Q. Kept it all to yourself?—A. I presume it is in the newspaper. He can read as well as I can.

Q. You mean you presumed he knew it?—A. I presume he could read as well as I can, I will put it that way, sir.

Q. And that he knew it?—A. I don't know. I don't know what he knew. I presume he reads the newspaper.

Q. Didn't you think that was a matter that he would be interested in knowing?—A. I don't deal in persumptions. I don't know. I only know what I know.

Q. Now, I believe you testified about this three stage thinking that you all were having about this proposed speech, and that—correct me if I am wrong—it was your testimony that you thought it would be a good thing for the 1960 campaign—that was his current campaign—and would be very important in the 1960 election; is that your testimony?—A. I don't think I said it would be very important. I said it would be helpful to him because it was of statewide nature, and it was Maryland he was talking about.

[1042] Q. And would be helpful to him in his 1960 reelection?—A. That is right.

Q. Where he was running in the First District.—A. That is correct.

Q. On the Eastern Shore?—A. That is right.

Q. You testified he had a weekly newsletter, I believe, that you would prepare for him?—A. That is correct.

Q. Which went out to some 7,000 to 35,000 people.—A. That is correct.

Q. Isn't it true, as a matter of fact, that this speech which was delivered on June 30, 1960, was not written up in this newsletter of the Congressman? Yes or no?—A. Of course not.

Q. And it was never written up in this newsletter which went out to his constituents?—A. That is correct.

Q. And as a matter of fact, before it was delivered, isn't

it true, that you had no complaints at all in your office about this May 27, 1960 article from any of the Congressman's constituents in the First District of Maryland?—A. We didn't have any complaints. We had questions.

Q. From constituents?—A. That is correct.

Q. As a matter of fact, before it was delivered, isn't it true that you had no complaints at all in your office about this May 27, 1960 article from any of the Congressman's constituents in the First District of Maryland?—A. We didn't have any complaints. We had questions.

Q. From constituents?—A. We had questions from constituents. I went down every weekend. We had questions.

Q. Isn't it true that you had no requests from the Eastern Shore to make any speech?—A. We had no request to make a speech, per se, no.

Q. And after the speech was delivered there were no letters of congratulations about this speech that came in [1043] from anybody on the Eastern Shore, isn't that right?—A. I don't recall any letters of congratulations, no.

Q. As a matter of fact, you told the grand jury in April of 1962, didn't you, that the speech was made and it seemed to be forgotten as far as the First District was concerned?—A. That is true.

Q. And it was forgotten by all those constituents who were going to vote for him because this issue that he was going to seize on?—A. That isn't true, because we could use it in the political campaign if we needed to.

Q. And no requests for any reprints came in from any people on the Eastern Shore, did they?—A. I don't recall. I don't recall.

* * * * *

Q. You claimed on direct examination to recall overhearing discussions having to do with a development known as Chesapeake Heights.—A. I referred that back to September 1960.

Q. You heard that discussed?—A. I heard discussions of that nature, and I said there were two or three visits at that time.

Q. In 1961 I believe you said you overheard discussions about a Leisure City?—A. Charles County Land Corporation and Leisure City.

Q. Leisure City many times?—A. Yes, sir.

Q. Isn't it a fact, Mr. Buarque, that when you testified before the grand jury in April of 1962 you said then that the only legal work you knew anything about was the Charles County Land Corporation?—A. I knew the Charles County Land Corportation, yes, definitely, and I also knew Chesapeake Heights. I don't think the question was asked me just what. It referred to this particular Waldorf situation as far as I am concerned.

Q. Do you recall this question and answer on pages 23 and 24 of the grand jury transcript:

> [1044] Question. Did Congressman Johnson ever represent Mr. J. Kenneth Edlin as attorney?
>
> Answer. Not that I know of. He may have done so, but I don't recall any of it. I don't really know. In what capacity do you mean?
>
> Question. As a lawyer doing any legal work for him.
>
> Answer. The only thing I know of, he worked for him on Charles County Land Corporation, as I see it and as I understand it, and I don't know too much about this legal end of it, but he considers himself to be an underwriter.

Do you remember that question and that answer, Mr. Buarque, when you appeared before the grand jury?—A. Oh, yes, definitely, I remember that answer.

Q. And you gave that answer?—A. Oh, sure.

* * * * *

(Thereupon JAMES ASHBY, JR., a witness, having been first duly sworn, was examined and testified as follows:)

DIRECT EXAMINATION

The CLERK. State your name for the record.

The WITNESS. James Ashby, Jr.

The CLERK. Will you spell your last name, please?

The WITNESS. A-s-h-b-y.

The CLERK. Take the stand, please, sir.

By Mr. DOUB:

Q. Mr. Ashby, where do you live?—A. Fredericksburg, Virginia, sir.

[1045] Q. What is your business?—A. I am an attorney.

Q. And you have practiced law in Fredericksburg for how long?—A. Since 1945. I practiced law since 1938 but I spent about five years in the Service.

* * * * *

Q. Now, Mr. Ashby, I would like to direct your attention to May of 1961.—A. Yes, sir.

Q. Will you tell the jury whether you received telephone calls in that month from a Mr. Hollis Rhinehart?—A. I did, sir.

Q. And who was Mr. Rhinehart?—A. Mr. Rhinehart was an attorney from Miami, Florida, who had formerly lived in Charlottesville, Virginia. I believe he was a good many years ago admitted to the Virginia bar but had been practicing in Miami for many years.

Q. Now, what did Mr. Rhinehart telephone you about?—A. He telephoned me with regard to the possible examination of title or abstract of title to a property generally known as Crows Nest. It is more than just Crows Nest but it was referred to as that in our area, consisting of about 4,600 acres.

Q. 4,600 acres of land?—A. Yes, sir.

Q. Is that near Brooke, Virginia?—A. Yes. And it borders on Accoceek Creek and Potomac Creek.

Q. Now, what did Mr. Rhinehart ask that you do?—A. First, to arrange or asked me if I were in a position to perform this service. He was under the impression that I had previously abstracted title to this property. I informed him that I had not but that Mr. Wilson Ingram of Roanoke had previously done it up to, I believe, 1953 or 1954. 1953 or 1954. And that I would be in a position to work on the matter if it were desired with Mr. Ingram. At the same time——

Q. Wait. Did you suggest that Mr. Ingram from Roanoke be brought into the matter to help you or did Mr. [1046] Rhinehart suggest it?—A. I suggested it and I also suggested that Mr. J. M. H. Willis, of Fredericksburg be brought in because he had previously abstracted the title for Equitable Life Insurance, I believe, for a parcel of 620 acres which was in addition to the other tracts in Crows Nest and I think, also his abstract would run up to around 1953 or 1954.

Q. What else did Mr. Rhinehart tell you on the telephone on that occasion?—A. Well, on that occasion I believe he asked me to determine just exactly what would be done, would have

to be done, how soon it could be done and to advise Congressman Johnson as to the possible cost and the length of time that it would take.

Q. I show you what purports to be a copy of a letter dated May 18, 1961 from you to Thomas F. Johnson with a copy to Mr. Hollis Rhinehart, and ask you what that is.—A. That is a letter that was written in response to the original telephone call following a conference with Mr. Rhinehart and Mr. Caudle at which time I first learned that the loan was for, or to be for $850,000, that title insurance would be required, and that I put the First Continental Savings and Loan Association, Inc., in it. I assume I learned at that time that was to be the lending institution.

* * * * *

Q. Now, you also state here in your letter on the second page to Mr. Johnson:

> It is my understanding that you will consider the foregoing and confirm the fee arrangement and authorize me to have each interested attorney proceed.

Did Mr. Johnson confirm this arrangement with you as outlined in your letter?—A. Yes, sir.

Q. He did. And before he confirmed it to you, did you do any real legal work on this matter?—A. No, sir, the only thing that was done, I assumed that the confirmation was going to be received and the only thing that was done, I called Mr. Ingram, I believe and sent him—I believe [1047] I called him and suggested that he get his papers in order so that we could proceed promptly because at that time it was a desire for speed in getting the matter concluded.

* * * * *

Q. Now, do you recall a meeting on June 9, 1961?—A. Yes, sir.

Q. And was that meeting in Fredericksburg and with whom was it?—A. That meeting was in Fredericksburg and it was with Congressman Johnson, Congressman Boykin and Mr. Robinson.

Q. And what was the subject of discussion with them?—A. Well, I think, at that meeting we discussed generally the question of getting the perimeter survey and I have some notes on the conference; I could go over them in detail, if you would

let me have them. Some 7 or 8 matters that were discussed during the course of that meeting.

* * * * *

CROSS EXAMINATION

By Mr. MARION:

Q. Mr. Ashby, as I understand your testimony, you were originally contacted in this matter by Hollis Rhinehart who was an attorney in Miami, Florida, is that correct?—A. That is correct.

Q. And you had known Mr. Rhinehart for some time prior to that, had you not?—A. Yes, sir, for many years.

Q. And at that time did you know Congressman Johnson?—A. I knew of Congressman Johnson but I do not believe I had met him as of that time.

Q. And it was Mr. Rinehart, was it not, who asked you to undertake the title work in connection with the tracts of land at Brooke, Virginia?—A. It was Mr. Rinehart who discussed the matter with me but he did not ask me to un-[1048]dertake it, the approval of the undertaking was left to Congressman Johnson.

Q. Was there mention of Congressman Johnson at the time you were first contacted by Mr. Rhinehart?—A. The first time he contacted me was by telephone.

Q. Who contacted you? Mr. Rhinehart?—A. Mr. Rhinehart. The second time at the conference with Mr. Rhinehart and Mr. Caudle, I was directed to communicate with Congressman Johnson and that brought about the letter of May 18 which is in evidence.

Q. You were directed to communicate about the amount of your fee with Congressman Johnson, is that correct?—A. And other matters that were related in that letter.

Q. And you did write to Congressman Johnson, according to the letter which is in evidence, on May 18 after meeting with Mr. Rhinehart and Mr. Caudle?—A. Yes, sir.

Q. And did Congressman Johnson immediately reply to that letter of May 18?—A. No, sir, I think not.

Q. You did receive a letter from him, did you not, dated June 1, 1961 which was not introduced into evidence by the defense?—A. I think I did.

Q. Do you have that with you?—A. I think it is in the court room but I do not believe I have it in my file. Let me see.

Q. I will show you a copy of it and perhaps—can we have the original? Who would have it, Mr. Ashby?—A. Let me see if I have it, first. I believe Mr. Doub has that letter from my files.

Mr. DOUB. What is the date of it?

The WITNESS. The letter of June 1 from Congressman Johnson.

Mr. MARION. Is this the letter you received from Congressman Johnson dated June 1, 1961?—A. It is.

[1049] Mr. MARION. We offer this in evidence.

The CLERK. Government exhibit 156 marked in evidence.

[Government exhibit 156 marked in evidence.]

The COURT. Is there any objection?

By Mr. MARION:

Q. Mr. Ashby, to the best of your recollection, is this the first communication you had in this matter from Mr. Johnson either written or oral?—A. Yes, I think that is.

Mr. MARION. Members of the Jury, this is a letter dated June 1, 1961 on the letterhead of the Congress of the United States, House of Representatives, Washington, D.C., addressed to James Ashby, Jr., Esq., Post Office Box 358, Fredericksburg, Virginia.

> Dear Mr. ASHBY:
>
> My apologies for the delay in answering your letter of May 18, 1961.
>
> Yesterday I talked with Mr. Hollis Rhinehart who is to be in touch with you within the next few days. Mr. Rhinehart is authorized to direct the legal work to be done in this matter. I may add that the composite plat embodying all of the land in question is most urgent and I do hope that same may be made available at the earliest possible date.
>
> With kind personal regards, I am
>
> Sincerely yours,
>
> (S) THOMAS F. JOHNSON,
>
> *Member of Congress.*

And there is a notation in a different type at the bottom which indicates, does it not, Mr. Ashby, that you sent [1050] copies of that letter from your office to the lawyers who were working with you on the matter?

The WITNESS. Yes, sir.

By Mr. MARION:

Q. And then, if I understand your testimony on direct, Mr. Ashby, you believe that you received a telephone call from Congressman Johnson after that letter but before June 9, setting up the meeting of June 9?—A. I think that is correct. I may have received more than one but I believe it was Congressman Johnson who set up the meeting of June 9.

Q. And that was the only meeting you had with Congressman Johnson between the first of May, 1961 and the end of the year, 1961?—A. That is correct.

Q. Now, Mr. Ashby, although your letter to Congressman Johnson of May 18 mentions what the fee would be when the work is completed, so far there has been introduced, as I understand it, no letter which indicates that you actually billed anyone for your services, is that correct?—A. I do not believe there is any letter in evidence.

Q. You did send a bill for the services which you had rendered, did you not?—A. Naturally.

Q. And that letter was sent on July 5, 1961, was it not?—A. I think so and when the interim binder went forward.

Q. And that was sent to Congressman Johnson, was it?—A. Yes, sir.

Q. Do you have your office carbon of that letter?—A. Mr. Doub, I believe, has the letter of July 5, copy of the letter from my office to the Congressman's office.

Mr. DOUB. No, I do not have it.

Mr. MARION. It is a carbon copy.

The WITNESS. I stand corrected, sir. I have it.

[1051] By Mr. MARION:

Q. And is that the letter which enclosed a bill in the amount of $4,400.00?—A. A bill for $4,400 was enclosed as well as a statement from Lawyers Title Insurance Corporation to cover the interim binder and final mortgage policy.

Q. And the original of that letter was sent by you to Congressman Johnson?—A. Yes, sir.

* * * * *

The CLERK. Government exhibit 157 marked in evidence.

[Government exhibit 157 marked in evidence.]

Mr. MARION. Members of the Jury, this is a carbon copy of a letter dated July 5, 1961, addressed to the Honorable Thomas F. Johnson, Room 141 Old House Office Building, Washington, D.C.

DEAR CONGRESSMAN JOHNSON:

We have now received and I enclose herewith interim title insurance covering 8 parcels of land with the descriptions thereof as they should be inserted in deed from Tensaw Land and Timber Company, Incorporated to Leisure City Land Corporation.

The parcel to be conveyed by Brown is not included in this interim binder because there was no deed of record to Tensaw Land and Timber Company, Incorporated, at the time of my abstract of the first seven parcels, and it is my impression that at our conference in Fredericksburg, it was determined that I should not hold up the work on these parcels to add the Brown property to the abstract.

I was to have been forwarded a copy of the American Asphalt Company contract, which was never received, and I would like to have this in order that the final title certificate may recite it.

[1052] Our statement for services is enclosed herewith, as well as a statement from Lawyers Title Insurance Corporation to cover the interim binder and the final mortgage policy.

My purpose in forwarding the original of the title binder to you at this time is to furnish you the guide for proper descriptions of the eight parcels of land.

It will be noted that a 5.148 acre tract is excepted under tract 8, schedule A, because of the poor description of this parcel. If this becomes of serious importance to the lender, it will be necessary that Mr. Willis abstract the title to the property adjoining this parcel of 5.148 acres in order to establish boundary lines.

As soon as I hear from you, I will proceed in accordance with your schedule to notify the tenants upon the premises of the sale and advise them to leave the premises. I will have these notices delivered by Mr. Kendall so that he can explain to each tenant so that they will in the future be the tenants of Leisure City Land Corporation.

I am forwarding a copy of this letter to Congressman Boykin and to Messers. Ingram and Willis.

I am pleased to report to you that the perimeter plat is now being prepared in an appropriate size and form

as per instructions received by Mr. Ingram and will include the Brown, as well as the Temptation Farm tract. However, the 5.148 acres will not appear on it because of the indefinite description.

I shall await your further advice in this matter.

Carbon copy to Honorable Frank W. Boykin, Mr. J. Wilson Ingram, and Mr. J. M. H. Willis.

Q. As I understand, Mr. Ashby, your bill in the amount of $4,400 was forwarded to Congressman Johnson as an enclosure to this letter?—A. Yes, sir.

Q. There is some reference in here to the Asphalt Company contract. This had been discussed, I think you indi-[1053] cated on direct examination, at the meeting of June 9, is that correct?—A. That is correct.

Q. And you requested a copy of that contract at that time?—A. That is correct.

Q. And you had not received one as of July 5, 1961?—A. I had not.

Q. Did you receive one from Congressman Johnson thereafter?—A. No, sir.

Q. Did you receive one from anyone?—A. As far as I know, I never received one.

Q. There is also some indication in this letter there as to notification of tenants. Had that been discussed at the June 9th meeting with Congressman Johnson?—A. Yes, sir.

Q. And had he sent you what information you wanted at the time you wrote this July 5th letter?—A. No, sir, I had not received the information but I was in a position to get the names of the tenants. The question was instructions as to when they should be notified.

Q. And were you instructed by Congressman Johnson as to when they should be notified?—A. I was never instructed to notify the tenants other than the discussion of the 9th of June.

Q. After you sent that bill, with your letter of July 5, you were not paid until a letter dated December 28 arrived in your office, is that correct?—A. That is correct.

* * * * *

Q. As I understand your letter of July 5, 1961, you furnished the appropriate descriptions which were to be used in a deed from Tensaw Land and Timber Company to Leisure City Land Company, is that correct, in your letter of July 5?—A. I think that is correct, sir.

Q. And did you know at that time that the property had already been deeded to Leisure City Land Corporation?—A. I did not.

[1054] Q. And was it brought to your attention at the time of the recordation of those instruments at Stafford County in July that they, in fact, had been recorded in July of 1961?—A. It came to my attention. It was not brought to my attention by anyone.

Q. Congressman Johnson never advised you of the recordation of those instruments?—A. No, sir, I advised him.

Q. As a matter of fact, you found out yourself when you happened to be up in the court house in Stafford, did you not, on another matter and happened to have ascertained that those instruments had been recorded?—A. That is correct, and I advised Congressman Johnson of the fact.

Q. And that is your letter of August 23, is it not?—A. Yes, sir.

* * * * *

Mr. MARION. Government exhibit 158 is a carbon copy of a letter from Mr. Ashby to the Honorable Thomas F. Johnson, Room 141, Old House Office Building, Washington, D.C., dated August 23, 1961.

DEAR CONGRESSMAN JOHNSON:

Somewhat to my surprise, I find that on August 18 the following instruments all dated April 29, 1961, were recorded in the clerk's office of the Circuit Court at Stafford.

No. 1. Deed conveying the 8 parcels set out in interim binder, obtained by the undersigned, J. M. H. Willis, Esq., of this city and J. Wilson Ingram, Esq., of Roanoke, Virginia; said binder running to First Continental Savings and Loan Association, Inc., and being dated June 30, 1961;

No. 2. Deed of trust from Leisure City Land Corporation to F. P. Moncure and Clay Kendall Trustees (does not list the addresses in Virginia of the trustees named nor recite that they are residents of Virginia); secures one note in the sum of $2,875,000 payable to Tensaw Land and Timber Corporation, as Instrument No. 1086, recorded at 1:20 p.m. on August 18, 1961;

[1055] No. 3. Deed of Trust, Leisure City Land (2830) Corporation to Clay G. Kendall, of Stafford, Vir-

ginia, securing one note dated April 29, 1961 in the sum of $843,750 payable to First Continental Savings and Loan Association Inc., as Instrument No. 1087 at 1:35 p.m. on August 18, 1961.

At this writing, we have not been furnished with copies of the instruments recorded, nor would we have been informed of their having been recorded had I not observed same through the daily index at Stafford while in the Clerk's office on the morning of August 21st.

I have written to Mr. Lykes Boykin to request copies of these instruments but at this writing I have not had any response to my letter of August 21 addressed to him.

In order that this matter may be properly concluded and Lawyers title policy procured as per your request and authorization, it will be deeply appreciated if you will have the originals of all instruments forwarded to the undersigned, or photostatic copies of same forwarded at your early convenience.

I observed in the above referenced deed from Tensaw Land and Timber Corporation to Leisure City Land Corporation that the following reservation was contained:

"This conveyance is made subject to conditions, restrictions and right of way contained in deeds forming the chain of title to this property and is also subject to existing tenancies, whether of record or not."

"With respect to this latter reservation underlined by me, I have not as yet been given the names of the tenants to whom you directed that protective notices be forwarded at our conference on June 9, 1961, but will again request these from Mr. Kendall.

I am also still awaiting a copy of the contract between Tensaw Land and Timber Corporation and American Asphalt Company, to which reference was made at our conference of the above date.

[1056] I am sure that this letter reaches you at a time when you are extremely busy with your duties in Congress, but trust that you will be in a position to have someone supply the requested copies of instruments.

With kindest regard and best wishes, I am

Sincerely,

JAMES ASHBY, Jr.

Copies to J. M. H. Willis, Esq., J. Wilson Ingram, Esq. And the post script:

> Since the above letter was dictated, I have received a telephone call from Mr. Lykes Boykin, and he advised that in the near future, he will forward to me copies of the instruments numbered 1, 2 and 3 above. It is suggested that you have forwarded to me a copy of the American Asphalt contract at an early date:

By Mr. MARION:

Q. Now, Mr. Ashby, did you receive a letter in reply to that from Congressman Johnson?—A. I do not believe I did, sir.

Q. Then at the end of September, Mr. Ingram advised Congressman Johnson, did he not, by letter, copy of which was sent to you, of the correction as to that 5.148 acre tract as a result of your obtaining the old plat?—A. Yes, September 28.

Q. And you subsequently received a copy of Congressman Johnson's answer to that letter, did you not, the original of which was addressed to Mr. Ingram in Roanoke, Mr. Ingram sending you a photostatic copy of the original?—A. Yes, sir.

Mr. MARION: Are they marked?

The COURT. Yes, the September 28 is 159.; the 10th of October is 160.

[1057] Mr. MARION. Letter of September 28, 1961, members of the jury, is a carbon copy of a letter from J. Wilson Ingram to the Honorable Thomas F. Johnson, Room 141 Old House Office Building, dictated September 28, 1961. This is a carbon copy to James Ashby, Jr., Esq. Four other carbon copies are indicated.

DEAR CONGRESSMAN JOHNSON:

> I am in receipt of Lawyers Title Insurance Corporation endorsement eliminating from their interim binder Item 9, section 2, schedule B. Will you please see that this endorsement is attached to the original binder, which I believe is in the hands of First Continental Savings and Loan Association, Inc.
>
> I presume you have now received the composite maps recently corrected to show the 5.148 acre tract. With the elimination of the title company's exception to the 5.148 acre tract, it would appear that this matter should be concluded at an early date. I am certain that my associate attorneys will join me in appreciating a status

report on this matter and some suggestion as to when we can expect to secure the final title policy. Please let me have a response to these inquiries at your earliest opportunity.

I know you are delighted to have a long hard session of Congress come to an end. There have been many disappointments, I'm sure, not only to you but to most of the citizens, but I feel that the accomplishments of this session greatly exceed its disappointments. I appreciate your good work in aiding in the expeditious handling of our legislative program.

Looking forward to an early reply and with kindest personal regards, I remain

Very truly yours,

(S) J. WILSON INGRAM.

And with copies to The Honorable Frank W. Boykin, The First Continental Savings and Loan Association, [1058] James Ashby, Jr., Esq.; J. M. H. Willis, Esq.; Lykes Boykin, Esq.

And the answer to that dated October 10, 1961, from Congressman Johnson on stationery of the Congress of the United States.

J. Wilson Ingram, Esq.,
Shenandoah Building,
Roanoke, Virginia.

DEAR MR. INGRAM:

My apologies for the delay in answering your last letter. With the adjournment of Congress and the pressure from the District there has been little opportunity for legal affairs. I am happy, however, to note that Lawyers Title has issued an endorsement eliminating from their interim binder Item 9, Section 2, Schedule B. This endorsement has been attached and same delivered to the Savings and Loan Association.

I am anxious to know if any fee remains unpaid covering legal or surveying services. If there are any funds due, please advise and I will communicate with clients.

I am most appreciate of your favorable expressions covering legislation during the past session.

With kindest regards, I am

Sincerely yours,

THOMAS F. JOHNSON, M.C.

By Mr. MARION:

Q. Now, after October 10, Mr. Ashby, you did not receive, did you, the fee which you had previously billed for, immediately?—A. No.

Q. And there were further letters written, were there not, on November 16 and November 17, 1961, the first being a letter of Mr. Ingram to Congressman Johnson, and the [1059] second being your letter to Congressman Johnson?—A. That is correct, sir.

Q. And do you have carbon copies of those letters?—A. I do.

The COURT. Are there going to be any others, Mr. Marion?

Mr. MARION. I think it might be helpful to have the envelope in which that December 28, 1961 letter arrived in your office, Mr. Ashby, if you have that.

The WITNESS. I think that Mr. Doub has that, sir.

The COURT. Mr. Doub?

Mr. DOUB. Sir.

Mr. TYDINGS. The envelope of the December 28th letter. Do you have the envelope? We wish to offer it into evidence.

Mr. DOUB. Do you have that?

Mr. JOHNSON. No.

The COURT. The witness said he gave it to you.

Mr. MARION. The envelope you kept attached to the letter, Mr. Ashby, for your tax records.

The WITNESS. Yes, sir.

By Mr. MARION:

Q. Since the letter purports it is being mailed to you so you can record it in 1961.—A. Yes.

Q. Whereas the letter did not reach your office until January 9, 1962, is that correct?—A. About that date.

Q. Postmarked January 8, 1962 in Baltimore, Maryland, is that correct?—A. I would have to look at the envelope in order to refresh my memory on that. It is approximately correct. [1060] The COURT. Well, if you have a photostat and Mr. Doub cannot find the original, use the photostat.

* * * * *

Mr. MARION. If Your Honor please, I offer the letter of November 16, 1961 from Mr. Ingram to Congressman Johnson and the letter of November 17, 1961 to Mr. Ashby from Congressman Johnson.

The CLERK. Letter dated November 16, 1961, Government exhibit 161 marked in evidence.

Letter dated November 17, 1961 Government exhibit 162 marked in evidence.

[Government exhibits 161 and 162 were received in evidence.]

Mr. MARION. Members of the Jury, Government Exhibit 161 is a carbon copy of letter from Mr. Ingram to Congressman Johnson, November 16, 1961.

DEAR CONGRESSMAN JOHNSON:

On October 12, 1961 I addressed a letter to you requesting that you communicate with our clients and arrange to have our work for the above-referenced corporation concluded. To date so far as I am advised, neither of my associate counsel nor I have received any information about the matter. We are very much concerned about its status, and for that reason, I am writing to request that you make an inquiry in our behalf and let me know when we can expect to conclude our services.

I trust I will receive an early reply.

With kindest personal regards, I remain

Very truly yours,

J. WILSON INGRAM.

Carbon Copy J. M. H. Willis, Esq.; James Ashby, Jr., Esq.

[1061] And the letter of November 17, 1961, Government Exhibit 162, carbon copy of letter to the Honorable Thomas F. Johnson, Room 141, Old House Office Building, Washington, D.C.

Re: Leisure City Land Corporation.

DEAR CONGRESSMAN JOHNSON:

It will be deeply appreciated if you will accomplish the request of my associate, J. Wilson Ingram, Esquire, so that we can properly conclude our services in the above matter.

Your early advice is awaited.

With kind personal regards, I am

Sincerely,

JAMES ASHBY, Jr.

Carbon Copy: J. Wilson Ingram, Esq.; J. M. H. Willis, Esq.

Q. Mr. Ashby, this is a letter of October 12th, a copy of which you received, the original of which apparently went to Congressman Johnson, from Mr. Ingram?—A. Yes, sir.

Mr. MARION. I offer the letter of October 12, 1961, and also the copy of the letter of December 27, 1961.

The CLERK. Letter dated October 12, 1961, Government's Exhibit 163 marked in evidence.

[Government's Exhibit 163 was received in evidence.]

The CLERK. Letter dated December 27, 1961, Government's Exhibit 164 marked in evidence.

[Government's Exhibit 164 was received in evidence.]

Mr. MARION. Members of the Jury, the letter of October 12, 1961, is a carbon copy to Mr. Ashby of a let-[1062]ter from J. Wilson Ingram, to the Honorable Thomas F. Johnson.

Re: Leisure City Land Corporation.

DEAR CONGRESSMAN JOHNSON:

Thank you for your letter of October 10, 1961.

Please be advised that the surveyor has been fully paid for all services rendered.

So far as I am advised, no fee has been paid for any legal services rendered to date. Associate counsel and myself would like to conclude this matter at the earliest opportunity. The only thing remaining now is to obtain the title insurance policy. The security instrument has been recorded. We are awaiting instructions to wind up this matter. I will appreciate your communicating with our clients and arranging to have this work concluded as soon as possible.

Thank you for your cooperation in this matter. I trust you or one of our clients will communicate either with associate counsel or with me in the very near future.

With very kindest regards, I remain

Very truly yours,

J. WILSON INGRAM.

cc: J. M. H. Willis, Esq.; James Ashby, Jr., Esq.

Next is a carbon copy of the letter of December 27, 1961, which is from Goolrick, Ashby & Whitticar, to First Continental Savings and Loan Association, Inc., 5410 Wisconsin Avenue, Chevy Chase, Maryland. Attention: Mr. Robinson.

Re: Leisure City Land Corporation

GENTLEMEN:

On July 5, 1961, the undersigned, in cooperation with Mr. J. Wilson Ingram, of Roanoke, and Mr. J. M. H. Willis, [1063] of this city, completed examination of title and the securing of interim binder upon some eight tracts of land in Aquia Magisterial District, Stafford County, Virginia, running to your corporation, and transmitted said interim title insurance binder to Congressman Johnson. At this time, a statement for services in accordance with prior agreement was submitted by this firm on behalf of the undersigned and the two cooperating attorneys, in the sum of $4,400.00. A photo copy of this bill, which was rendered to Leisure City Land Corporation, is enclosed, which said corporation executed a mortgage securing payment of a loan to your corporation in accordance with said interim binder, and that instrument has been duly recorded in the Clerk's Office of the Circuit Court of Stafford County, Virginia. portion of the land, the subject of said interim title Because of an exception regarding the 5.148 acre binder, there was secured and forwarded through Congressman Johnson a letter obtained from Lawyers Title Insurance Corporation of September 27, 1961, eliminating the exceptioncontaine d in Item 9, Section 2, Schedule B of the interim binder.

The undersigned and our cooperating counsel will appreciate your having the statement of July 5, 1961 promptly and duly paid.

Very truly yours,

GOOLRICK, ASHBY & WHITTICAR.

CC: Honorable Thomas F. Johnson, Honorable Frank W. Boykin, Mr. J. Wilson Ingram, Mr. J. M. H. Willis.

By Mr. MARION:

Q. Then I think you testified thereafter, Mr. Ashby, that you received the letter of December 28, 1961, enclosing [1064] the check in the amount of $4,400, is that correct?—A. Yes, sir.

Q. And that was received in your office on January 9, 1962?—A. I think that is correct, sir.

Q. And I think you have identified the photostatic copy of the envelope in which that letter came to you, is that correct?—A. That is correct.

Mr. MARION. We will offer this in evidence, if Your Honor please.

The CLERK. Government's Exhibit 165 marked in evidence.

[Government's Exhibit 165 was received in evidence.]

Mr. MARION. Members of the Jury, this is a photostatic copy of an envelope which bears the return address, "Congress of the United States, House of Representatives, Official Business—Free," but has a stamp in the upper right-hand corner over the printed signature of Thomas F. Johnson. It is addressed to Goolrick, Ashby and Whitticar, Attorneys at Law, Fredericksburg, Virginia. It is postmarked at Baltimore, Maryland at 11:30 a.m., January 8, 1962.

By Mr. MARION:

Q. I show you, Mr. Ashby, Defendant Johnson's Exhibit No. 3 for identification. Can you identify that?—A. Yes, sir, that is the check that was received with the letter in the envelope to which reference has just been made.

Q. This check came to you from Congressman Johnson, is that correct?—A. Yes.

* * * * *

Mr. MARION. Members of the Jury, Defendant Johnson's Exhibit No. 3 is a check drawn on the Exchange and Savings Bank of Berlin, Maryland, dated December 28, 1961, pay to the order of Goolrick, Ashby and Whitticar, for $4,400, signed Thomas F. Johnson, Special Account No. 1.

[1065] The lower lefthand corner bears the words "Attorneys' Fees and Costs for Lawyers, Title policy, Re: Leisure City Land Corporation."

And on the reverse side it bears the stamp: "For deposit only Goolrick, Ashby and Whitticar, Attorneys at Law," and the words "Prof. Account." A. Professional Account.

Q. Although the check indicates, Mr. Ashby, that not only attorneys' fees but costs were also paid by that check, is it not a fact that the costs which had been incurred were not paid?—A. That is correct.

Q. And you and your associate counsel bore the expense of absorbing the costs which amounted to some $4.50, is that not so?—A. I think that is correct, and, of course, the Lawyers Title premium was not absorbed, and I don't know what it was.

Q. Do you know whether or not Lawyers Title was paid their $1,450?—A. I do not know.

Q. I have here a letter of January 9th. Is that a letter which you addressed to Congressman Johnson upon receipt of that check?—A. That is correct, sir.

Mr. MARION. May I offer this in evidence.

The CLERK. Government's Exhibit No. 166 marked in evidence.

[Government's Exhibit No. 166 was received in evidence.]

Mr. MARION. Members of the Jury, Government's Exhibit 166 is a letter on the letterhead of Goolrick, Ashby and Whitticar, Attorneys at Law, Fredericksburg, Virginia. It is dated January 9, 1962.

Honorable THOMAS F. JOHNSON,
Room 141, Old House Office Building,
Washington, D.C.
Re: Leisure City Land Corporation

[1066] DEAR CONGRESSMAN JOHNSON:

I wish to acknowledge and thank you for your check in the sum of $4,400.00 dated December 28, 1961 which reached my office this morning.

While this makes it impossible for us to enter the fee in 1961, your thoughtfulness is nevertheless appreciated.

With kindest personal regards and best wishes for the New Year, I am

Sincerely,

JAMES ASHBY, Jr.

* * * * *

Q. Mr. Ashby, was the letter which you received on January 9, 1962, although dated December 28, 1961, the only letter which you received which was on the letterhead of Johnson & Johnson, Snow Hill, Maryland, from Congressman Johnson, to the best of your recollection?—A. To the best of my recollection it was, but I wouldn't be positive.

* * * * *

Q. Mr. Ashby, there has been introduced in evidence the letter which you wrote to Congressman Johnson on July 5, 1961, where you enclosed your bill in the sum of $4,400. Did you also mention certain other problems to Congressman Johnson in the course of that letter?—A. Yes, sir, I think so.

* * * * *

Q. Did you receive any communication from Lykes Boykin after that relative to any of the problems which you had mentioned in your July 5th letter? Maybe I had better let you see the letter and read it over.—A. I don't know whether I received the letter from Mr. Lykes Boykin or whether it was a telephone call, but I know that following [1067] this letter of July 5th there were several communications either by telephone or letter concerning the 5.148 acre parcel, and Mr. Lykes Boykin was very much interested in determining how much this survey would cost.

I think he made that request to me by telephone and not by letter. That I have discussed the matter with the engineer, and I believe the engineer had written him and sent me a copy of the letter in which he had given a figure of approximately $500 or $600, I forget now, and he preferred to have it not to exceed a certain amount, and he had called me and spoke to the engineer either by telephone in the office and told him what was desired, and he wrote another letter to Mr. Lykes Boykin advising him that the cost of conducting such a survey and furnishing the plat would not exceed $600.

Q. And you were in contact either by letter—you and your associates—either by letter or by telephone with Mr. Lykes Boykin during this period in July, August and September of 1961, were you not?—A. Yes, sir, because the perimeter survey problem was one that was definitely his. I also communicated with him after I discovered that the documents had gone to record.

Q. Isn't it a fact also, Mr. Ashby, that after you received the letter of June 13, 1961, the week after your Friday conference with Congressman Johnson, Congressman Boykin, and Mr. Robinson, after you received that letter of June 13th, that you had no communication with Congressman Johnson until you received the letter and the check in January of 1962?

* * * * *

Mr. MARION. My question to the witness, Your Honor, is whether he was contacted in any way by Congressman Johnson during the period after you received the June 13th letter until you received the check January of 1962?

The WITNESS. Well, by Congressman Johnson?

[1068] By Mr. MARION:

Q. Yes, by Congressman Johnson.—A. Simply by receiving copies of letter that had been sent by him to Mr. Ingram, one

or more, I don't recall now, because my file is becoming rather impossible to answer questions of this kind from because I don't have the letters in it anymore.

Q. The letter in evidence of October 10, 1961, from Mr. Ingram, you did not receive a copy of that letter from Congressman Johnson, did you?—A. No, Mr. Ingram sent it.

Q. Mr. Ingram sent you a photostat of the original that he received, is that correct?—A. That is correct.

Q. Aside from that letter did you receive any direct letters from Congressman Johnson to you during the period I have mentioned?—A. If I did, I don't recall it.

Q. And did you receive any telephone calls from Congressman Johnson during that period, to the best of your recollection?—A. From?

Q. From Congressman Johnson to you.—A. From what date, sir?

Q. From June 13, 1961 until you received the check in January of 1962?—A. To the best of my recollection, I did not, but I wouldn't be sure. I didn't keep a record of all telephone calls of this matter.

Q. I understand that, and is it not also a fact, Mr. Ashby, that you and your associates, Mr. Ingram and Mr. Willis in Fredericksburg performed the title search, the work in connection with the search of the title and the abstracting of the title, so that Lawyers Title could issue its policy of insurance?—A. Yes, sir.

Q. And to the best of your knowledge, your personal knowledge, Mr. Ashby, is it not a fact that Congressman Johnson performed no actual legal work in connection with this work which you and Mr. Ingram and Mr. Willis were [1069] doing?—A. Well, now, that is difficult to answer, Mr. Marion, because he directed in the conference of June 9th the work that was to be done concerning this matter, and his directions were as to what was to be done about the title and what was to be done about the perimeter survey, and certainly that would be a legal service.

Q. My question is, to your knowledge did he actually himself perform any legal work, to your knowledge, in connection with this title work?—A. Of course, not. He obtained our services to do the abstract.

Q. One other thing, Mr. Ashby, you say that Congressman

Johnson authorized your fee of $4,400 at the meeting of June 9, 1961?—A. That is correct, sir.

Q. Did he at any time before that or after that attempt to negotiate with you about reducing the fee or about your sending him a forwarding fee of any sort?—A. No, sir. There was no question about any forwarding fee. I would not answer that Congressman Johnson at any time questioned the fee insofar as my personal knowledge is concerned.

Q. In other words, he authorized the fee in the amount of $4,400 on June 9th?—A. He authorized under the terms of my letter of May 18th the work to proceed, and that had in it the fee, the title insurance, the cost of binder and everything else.

I think the only difference at that conference, as I recall it, I think he had my letter of May 18th, and I think he had some notations that he made on it, had made on it or made on it while we were talking, and one of those was, reduction of the amount of loan from $850,000 to some other lower figure. I have forgotten what it was, but I think it is exactly——

Q. $843,000?—A. $843,000 to $700,000 something.

Q. It was at that meeting that he authorized you to proceed on the fee of $4,400?—A. That is correct.

[1070] Q. At no time did he question that fee or suggest another amount in any respect?—A. I don't know whether he ever questioned it, but not to me.

Q. Not to you?—A. Right.

Q. One final thing, Mr. Ashby, is it my understanding now that the only time in 1961 when you saw Congressman Johnson was June 9th, when he was present in Fredericksburg with Congressman Boykin and Mr. Robinson?—A. To the best of my knowledge. To the best of my recollection, that is correct. I may have seen him on one other occasion, but I don't think that he was going to discuss this particular problem. It was simply in passing.

Q. The only time that you saw him in 1961 in connection with this work which you were performing in Virginia was on June 9, 1961?—A. That is correct.

* * * * *

Thereupon RUDOLPH CARRICO, a witness, having been previously sworn, resumed his testimony further as follows:

CROSS EXAMINATION (RESUMED)

* * * * *

CROSS EXAMINATION

By Mr. Tydings:

Q. All right, Mr. Carrico, when you were contacted by Congressman Johnson initially to handle this foreclosure work, you agreed with him at that time what your foreclosure fee would be, did you not, and wasn't that fee agreed upon as $1,500?—A. Starting from that time. That is in that telephone conversation which is the first knowledge that I had in reference to foreclosure of the Linda City property. I could not say for certainty as to whether that $1,500 was discussed in that telephone conversation. In thinking about it for the last two or three days, I believe it was the time when I went to Washington. I am not positive as to the exact date.

[1071] Q. Well, sometime before you filed the papers in the proceeding the foreclosure fee, your fee was agreed upon as $1,500, is that not correct?—A. I could not say that as a fact. In other words, I cannot say it was prior to the institution of the proceedings.

Q. Well, was it agreed upon sometime during the filing of the proceedings?—A. Sometime during the proceedings but whether it was agreed upon before July 5, which was the date that I instituted the suit or prior to June 15, which was the first week that the property was advertised, I cannot positively say.

Q. But it was agreed upon that $1,500 was to be your fee for handling the foreclosure proceedings?—A. Yes.

Q. You discussed some meetings with Judge Digges in connection with the reduction of the bond premium?—A. Yes, sir.

Q. Congressman Johnson was present at none of the meetings with Judge Digges, was he?—A. No, he was not.

Q. You handled all of the meetings and all of the work before Judge Digges, yourself, did you not?—A. That is correct.

Q. In connection with the reduction?—A. Yes.

Q. As a matter of fact, during the entire time you handled this foreclosure proceeding, to the best of your recollection, Congressman Johnson never even came to La Plata, did he?—A. Not to my knowledge, no.

Q. And the only time you saw him personally during this period was when you came up to Washington to his office, which you described to the jury?—A. Yes.

Q. Approximately how long a period before the actual foreclosure sale in July were you initially contacted, Mr. Carrico?—A. Again, I just can not say. All I know, it was some time prior to June 15 and the first—you see, we get our local papers down there only coming once a week, and this property down here was advertised the first week, [1072] according to the certification, if you do not mind my referring to that.

Q. Certainly not. We are interested in the best facts we can get.—A. June 15, 1961.

Q. That was the date the advertisement was first published?—A. The first insertion and the last insertion was July 6, 1961.

Q. Your final work when the mortgage was actually released by the Court, approximately what date was that?—A. July 28, 1961.

Q. So, the period of time when you handled this foreclosure proceeding actually started with one or more phone calls from Congressman Johnson sometime shortly prior to June 15 and terminated approximately July 28, at least in so far as your work was concerned, when the mortgage was released?—A. As far as the work was concerned; yes, sir.

Q. Now, during that time your only contact with Congressman Johnson, other than the telephone calls, was the time you went to Washington to see him and discuss the reduction of the bond premium?—A. That is right; yes, sir.

Q. Now, some time in the summer of 1962, that is, last year, did not Congressman Johnson call you up and ask you what sort of commission would a lawyer be entitled to in a foreclosure proceeding in Charles County ordinarily?—A. He did, yes.

Q. And that is when you advised Congressman Johnson of the custom at least in Charles County, when the percentage was actually expressed in the mortgage, 3 or 6 percent, depending on whether or not the sale was consummated?—A. That was not the first time I advised him. I had also advised him sometime during the period prior to June 15, 1961, and the period of July 28, 1961.

[1073] Q. But from that time, initially, there had never been any mention of it until sometime last summer?—A. In the interval?

Q. Yes.—A. No.

Q. Now, Mr. Carrico, actually you wrote three separate letters to Congressman Johnson sometime subsequent to the foreclosure proceedings, attempting to get your costs and your fee paid, did you not?—A. That is correct. I think I turned over to you copies of those letters and told you about them. I think there was three.

Q. And finally, you did receive a check, and as you testified to the Jury here, you do not know from whom you received the check?—A. No, sir.

* * * * *

Q. Mr. Carrico, I show you Government Exhibit for identification 167 and ask you whether or not you can identify this exhibit.—A. This is a check dated September 14, 1961, to my order, Rudolph A. Carrico, $3,195.25, Charles County Land Company, Inc., and I cannot make the signatures out here, by two persons.

Q. Can you tell the endorsement on the back?—A. "For Deposit only to Rudolph A. Carrico Collection Account; Rudolph A. Carrico." That is my signature.

Q. That is the check you received as your fee, Mr. Carrico?—A. Yes, sir.

* * * * *

Q. Mr. Carrico, that check came to you in an envelope without any markings on it, did it not?

You just received the check in your office to the best of your recollection?—A. Without any markings—I do not remember any markings.

Q. Do you recall any covering letter with it?—A. No, it had a memorandum in it.

[1074] Q. I believe yesterday, Mr. Doub showed you an assignment which was executed by, I believe, a Mr. Woodman, Assistant Vice President of the Charles County Land Company.

I believe you testified that came to you in an envelope without a covering letter, is that correct?—A. Yes, that is correct.

* * * * *

Q. And you have been a friend of Congressman Johnson for many years, have you not?—A. Yes.

Q. Shortly before this trial began, Mr. Carrico, Congressman Johnson came down to visit you in your office, did he not?—A. With his attorney, Mr. Doub, and Mrs. Johnson.

Q. Right. And, at that time, Mr. Carrico, Mr. Johnson had prepared a statement of facts or events relating to this foreclosure which he gave to you to refresh your recollection, did he not?—A. No, that was prior to that time.

Q. How much prior to that time?—A. Probably a month or better, prior to that time. He mailed me a statement and wrote me a letter and asked me to review my files, at least he would appreciate it if I would review my files, and see if the memorandum that he had enclosed was correct dealing with——

Q. What did you do with that memorandum?—A. I read it and there was one or two things in there—although most of it was approximately correct.

Q. You tore it up, did you not?—A. I tore it up.

Q. You tore it up because there were too many discrepancies between his recollection and yours, did you not?—A. I recollect there were three discrepancies, as I recall.

Q. And the discrepancies related to Mr. Johnson's version that he had been down to see you in your office a number of times during this foreclosure proceeding, is that not correct?—A. Can I again refer to my note?

[1075] Q. Yes.—A. The day after I wrote a statement.

Q. But you do not have a copy of his memorandum?—A. No. And I sent him a statement, after review of my files, concluded what were the facts.

* * * * *

Q. Isn't it a fact that that memorandum which Mr. Johnson sent to you indicated that he had visited you on several occasions personally in La Plata during this foreclosure proceeding?—A. As I recollect, it stated that he had been in my office on May 1, of 1961 and that is relating to the foreclosure. And I had no indication of that.

Q. As a matter of fact, you even checked with your secretary to make certain you were correct on that?—A. I had no indication of that so I wrote up my statement with that eliminated and then sent him my statement and told him that I did not remember his being in my office on that date.

Now, if you want to go ahead with other changes.

Q. Discrepancies?—A. Another one was, and certainly very minor, that he started off by saying "I have known Congressman Johnson over a period of many years," which is true, and my statement says that.

Then he says, he had in the statement—I don't know the exact words, but I know it was along these lines—"When I had legal matters in the County, I would ask you if you were interested in being associated with me in a case."

I just changed this to read this way: "I believe that when he had any legal matters in the County, he would usually ask me if I was interested in being associated with him in the case."

Then the third one was—I remember, and I cannot get it specifically, the relation.

Q. Mr. Carrico, this statement as I understand, which Mr. Johnson sent to you, was prepared for you in the first [1076] person, is that correct?—A. I think it was. I am not positive of that.

Q. Was it prepared for you as you had your own prepared as though you, yourself, had prepared it?—A. Yes.

Q. And you do not have a copy of that? A. No. What happened is this: After I reviewed it and did not agree in toto with everything that was said, then I prepared a statement and then, at that time, concluding that I no longer had any reason for it, I tore it up.

* * * * *

Q. Now, one final question, Mr. Carrico, during the time that this foreclosure proceeding was handled, the actual work which was done in the foreclosure proceedings in Charles County, Maryland before the Court and in connection therewith was done by you and you alone, is that not correct?—A. All of it with the exception of the affidavit of indebtedness, and I do not know who drafted that. That was sent to me.

Q. That was the—I think that was the exhibit which was shown to you.—A. Signed by Mr. Woodman, I believe it is, saying that the debt due was $5,900,000—and whatever it was.

Q. I can't find Mr. Johnson's Exhibit but I show you Government Exhibit 153 which is the certified record of the Equity Court proceedings in Charles County, and ask you whether or not this statement of account is what you were referring to?—A. That is the statement of account.

Q. And you do not know from whom you actually received that statement of account, do you?—A. There was no forwarding letter with it.

Q. With the exception of that statement of account, you did all of the work, yourself?—A. My office.

Q. You and your office?—A. Yes.

* * * * *

[1077] Thereupon F. DeSALES MUDD, a witness, having been duly sworn, was examined and testified as follows:

The CLERK. State your name for the record.

The WITNESS. F. DeSales Mudd.

The CLERK. Take the stand, please.

DIRECT EXAMINATION

* * * * *

CROSS EXAMINATION

Q. All right, Mr. Mudd, if, as I understand your testimony correctly, the best of your recollection is that Congressman Johnson only came to your office in La Plata once during 1961 and that was on the May 1st occasion?—A. The only personal visit to the office I have been able to confirm from my office records.

Q. All right. Now, subsequent to that you were contacted by a number of other people in regard to this title work on the Charles County tract, weren't you, including Mr. Robinson, Congressman Boykin, Lykes Boykin and others?—A. Yes, sir. I might say that I think I contacted Lykes Boykin's firm and either talked to Mr. Boykin or his associate, Mr. DeFrancis, immediately after the May 1 visit to Congressman Johnson to determine whether in the opinion of that firm, I was at liberty to do this work for Congressman Johnson because of prior work for D.G. & R., Inc., in some instances at the request of Mr. Boykin and DeFrancis.

Q. And Lykes Boykin at that time was representing the so-called sellers, or the Desser interests, is that correct, or who was Lykes Boykin representing?—A. I do not know. Prior to May 1, more particularly on or about 1957 or 1958 some of the work I did for D.G. & R., Inc. of Mary-[1078]land

I had done in conjunction with and at the direction of Boykin and DeFrancis.

Q. Now, directing your attention back to the time that you went to work and during this period that you worked in the summer of 1961, actually you never knew whether or not Congressman Johnson was a client or principal in the transaction or just what his specific connection was with the Charles County Land Company, is not that correct?—A. Yes, that is correct.

Q. Is that a fair statement?—A. Yes, sir.

Q. And, as a matter of fact, once the work started, you had far more contact with Mr. W. L. Robinson, one of the defendants in this case, than with Congressman Johnson, did you not?—A. Towards the latter part of the transaction, yes, but initially, no.

Q. All right. Wasn't Mr. Robinson the person with whom you consulted regarding the progress or lack of progress during the period that you were working on this sale of the property?—A. Yes, sir, I contacted Mr. Robinson by letter and possibly by telephone about what I thought was the delay in Charles County Land concluding the acquisition of the Ryon property after the deed had been executed by the Ryons.

Q. As a matter of fact, Mr. Robinson came down to your office at least twice during the time you were doing the work, the title work on the sale and he actually went to the Record Office with you the day you recorded the mortgage, did he not, the First Continental Savings and Loan Association mortgage?—A. I put it the other way. I went to the office with him. He had papers executed which I did not prepare and which I had no reason to examine and actually waited in the clerk's office while my title clerk and I brought the title to date from our previous written report.

Q. And Congressman Johnson was not present then, was he?—A. To the best of my recollection, no.

[1079] Q. All right. Now, how long a period of time were you working on the title work in connection with the sale and on the acquisition of the Ryon property; what months would that be, approximately, in 1961?—A. Well, it indicates from the review of my file and the letters that are now in evidence, it began May 1, 1961 and continued through September of that year.

Q. Approximately five months. And during that period of time Congressman Johnson never did any title work in connection with this transaction to your knowledge, did he?—A. Personally, I never saw him work on the land records if that is what you mean.

Q. That is what I mean. And you kept records of, your own time records and you billed the Charles County Land Company, accordingly for the work done in connection with both the Ryon acquisition and the work done on the title in connection with the sale of the tract of land from Colonel Ernest's group to the Charles County Land Company, did you not?—A. Yes, sir.

Q. And you actually presented bills outlining the work which you did in this matter to the Charles County Land Company, did you not?—A. Yes, I believe I sent them to the Land Company in care of Congressman Johnson at his direction or to him, made out to the Charles County Land Company.

* * * * *

Q. Mr. Mudd, can you identify that exhibit?—A. Yes, sir, this is a bill from my office to the Charles County Land Company in favor of Congressman Johnson July 17, $575.00 for services from May 1 through July 17.

Q. And briefly what were the services?—A. Title.

Q. That was the title work which you did?—A. Yes, sir, and reports on several phases of the transactions we had discussed.

The CLERK. Government Exhibit 52-F marked in evidence.

[1080] [Government Exhibit 52-F marked in evidence.]

By Mr. TYDINGS:

Q. I show you government exhibit for identification 39 which was identified by Mr. Jackson Rains when he testified earlier in the case, and ask you whether or not you can identify government exhibit 39 for identification?—A. Yes, sir, that is the subsequent bill of September 11, 1961 for services and disbursements together with a check in payment thereof of $855.17.

The COURT. How much?

The WITNESS. $855.17.

The COURT. Does that include the $575.00?

The WITNESS. Yes, sir.

* * * * *

Q. Mr. Mudd, do these bills represent the total bills that you submitted for work done in this transaction in 1961?—A. I have no recollection of any other bills.

The COURT. Mr. Tydings, this bill is a duplication of the September 11th bill.

Mr. TYDINGS. There is also a duplication on these, Your Honor. The $575 bill is included in the first item. The $575 in the $855.17 bill so the total bill will be $855.17 plus what is not included in that bill is included in that one. I am trying to get every possible bill included here.

* * * * *

By Mr. TYDINGS:

Q. Mr. Mudd, would you tell the jury what your total legal charges were to the Charles County Land Company during 1961, the total amount?—A. Services, $850.00.

Q. $850.00. Tell the jury just what work that charge covered. The services which you performed for that [1081] $850.00?—A. You mean the type of work or the time involved?

Q. The type of work.—A. Well, it involved examination of the land records with respect to the $6 million mortgage which I understood from Congressman Johnson, his client had acquired. It included an examination of the title to the so-called "window" and approximately one hundred acres of land which had been released from the lien of the purchase money mortgage. It included the acquisition of the Ryon property and perfecting the title as best we could under the circumstances, to 9¼ acres of the Collier tract.

Q. How many hours approximately does that cover, Mr. Mudd?—A. An examination of my time records disclose that I personally worked on this matter on thirteen different occasions for a total of 14¼ hours.

Q. And would that include or not include any work done by any of your associates or law clerks?—A. No, sir.

Q. In other words, that charge, those hours would also be included in your total bill of $850?—A. The bill indicates about thirty hours of work by our associates and title clerk, in addition to my personal time.

Q. Now, a little earlier in cross examination I asked you a question which you answered in the affirmative to the effect that when you began work, you did not know whether or not Congressman Johnson was your client or not in this transaction. Actually, do your time records indicate that the first time work was done that the reference was to Boykin-Johnson property?—A. My time records on the first occasion show office conference with Congressman Johnson, regarding the Desser-Garfield prop-

erty. The subsequent notations are identified as Boykin property, Charles County land property, no consistency in that respect.

Q. The first-time charge for the work on May 8, 1961 is [1082] that listed? Would you check that and see whether that is listed as Boykin-Johnson property?—A. May 8?

Q. Yes, 1961.—A. 1961. Yes, that is "Boykin-Johnson Re: property."

Q. As a matter of fact, Mr. Mudd, even as late as January of 1962, you were still not certain whether or not Congressman Johnson was not your client or not one of the principals in this land transaction, is that not correct?—A. That is correct. The ultimate purchaser had been identified as Charles County Land Company; the principals I did not know.

Q. And, during this year 1961, actually, it was your understanding that Lykes Boykin was representing the sellers and W. L. Robinson was representing the purchasers, is that not correct?—A. It was my understanding that Lykes Boykin represented the intermediary holder of the mortgage and that Mr. Robinson was associated with Congressman Johnson or with picking up where Congressman Johnson left off.

Q. And was doing the legal work for the purchasers of the Charles County Land Company?—A. Yes, he personally to my knowledge did some of it.

* * * * *

Thereupon HARRY ADELBERG, a witness, having been previously sworn, resumed his testimony as follows:

The COURT. Mr. Doub?

DIRECT EXAMINATION (continued)

* * * * *

CROSS EXAMINATION

By Mr. WEINER:

* * * * *

[1083] Q. Do you remember testifying yesterday that some time after Mr. Robinson brought the mortgages to your office, the Cassell mortgages, these 305 mortgages, the Congressman came to your office and that the Congressman went in to your associate's room and that the Congressman spent some time in examining these Cassell mortgages; do you recall that?—A. Yes.

Q. You testified to that?—A. Yes, as a matter of fact, I can enlarge upon that if you care to.

Q. Oh, yes.—A. I also recall after I left the stand that we then discussed the question of the Curative Act, as a matter of fact, in the presence of my son-in-law I secured the Code and opened it for the Congressman. In fact, we were talking about it, started recalling the thing, and I gave the Congressman the Code.

Q. All in your office?—A. No, around the suite. I gave him a copy of the Code. Where he was at the time, I do not remember. I remember giving him a copy of the Code. And, as a matter of fact, the memorandum he made in the offices which he left in the files dealt, I think, in part with the Curative Act.

I had not looked at the memorandum.

Q. You say the Congressman did do legal research?—A. He certainly did.

Q. And you and the Congressman were entirely in agreement as to what should be done. Do you remember saying that?—A. That was our final conclusion.

Q. Do you remember saying, "And we finally worked out a confirmatory mortgage." Do you remember saying that?—A. No. If I said "we", that did not include the Congressman.

Q. That did not include the Congressman?—A. No. The confirmatory mortgage was worked on in my offices and Robinson was there while we prepared it. In fact, I had Mr. Silver of my staff work on it. He prepared a draft. [1084] We revised it, and there was a great deal of conversation. But I have got to enlarge on that further.

Q. Did you recall there were 305 mortgages?—A. I am vacillating between 305 and 306, but I think there were 305 mortgages.

Q. I will accept whatever number you want.—A. Well, thank you very much. And the fact does remain that there were other problems. Not only with the confirmatory mortgage. There was a basic mortgage, as I recall it.

Q. In this discussion you had with Congressman Johnson in your office that you are relating now?—A. I am sure he was informed of it, and I am sure that we had discussed it because this related to the primary problem.

Q. You discussed all this with him?—A. That is in one area or another. Now, I have got to say this to you: In actually drafting the confirmatory mortgage, the Congressman did not participate and I might point out to you that while I dislike putting myself in the category, for instance, in your own of-

fices you will refer something to someone to draw for you, I like to think that I am head of my own office but nevertheless this was the assignment. I had to draw a confirmatory mortgage or mortgages and I know this, that this discussion, Mr. Weiner, extended over a period of not one day but many days.

Q. It was real extensive?—A. It was extensive.

Q. You had extensive contact with the Congressman through all this?—A. I did not say that. I said the whole matter extended continuously. As a matter of fact, one of the problems, and I think I said this yesterday, was that it was my first impression and feeling that the best practice dictated individual confirmatory mortgages which meant the preparation and the filing of 305 documents.

Q. But you——.—A. I wanted to say this, that was one of the reasons for our disagreements. Robinson screamed and yelled that he did not want to spend the money or his [1085] association did not want to spend the money. I know he appealed to Johnson. I spoke to Johnson about it. We engaged, back and forth—we did other research.

Q. Who did you mean by "we"?—A. My office.

Q. You did not mean Congressman Johnson?—A. I am afraid I do not have the privilege of combining the Congressman and myself in many activities but getting back to this phase of it, we engaged in research back and forth because it was a distinct problem and the mere recording cost of 305 documents is substantial as you know, and the preparation work on them. But I think I finally accepted the view after research and discussion, that it could be done in a combined mortgage and I think one of the troubles that Robinson had is that he was not familiar with Maryland law. And being unfamiliar with Maryland law, he was not aware of the mortgage requirements in the State.

* * * * *

Q. Did you not tell the grand jury with respect to this examination of the mortgage portfolio that it was your recollection more than a year ago that you had received some inquiry or some call, maybe from Congressman Johnson and maybe from someone else, and that it was as a result of this call that you visited the offices of First Continental Savings and Loan Association?—A. That may be correct.

Q. And did you not tell the Grand Jury that when you went to the offices of First Continental Savings and Loan Associa-

tion, Congressman Johnson was not there?—A. No, he was not there. I am sure he was not.

Q. And didn't you tell the grand jury on that day more than a year ago, that you had no idea whether Congressman Johnson had ever gotten or checked those Cassell Mortgages? —A. If I said that, I was in error.

Q. And do you deny that you said that?—A. I do not. You have the record there.

* * * * *

[1086] Q. Is it not also a fact that these 305 Cassell mortgages which were individually bad as you say, were 305 printed copies of a printed form which were different only in that they had a couple of blanks where you filled in the amount and where you filled in a lot and block number and where on one page someone had to sign it?—A. Well, they were all on printed forms and I think I testified to that on direct. However, we had to examine each form because they involved a different person with a different record date and I was not at all certain. I did not know until I examined each mortgage on that to make sure there had been no collective effort or no changes. I do now know this. If you examined a few, you were examining the whole before it was ultimately through.

Q. You examined one in which the printed affidavit was not there—you were examining all of them?—A. It ultimately so developed that you had to check them all to make sure.

Q. I have just handed you, have I not, one of these printed forms?—A. Yes.

Q. Than there was a short printed mortgage note, is not that right? A. The note was not submitted to me.

Q. The note was never submitted to you?—A. No, sir.

Q. Just the mortgage?—A. Just the mortgage.

Mr. WEINER. If Your Honor please, I would like to offer into evidence at this time the printed mortgage form which the witness has just identified as government Exhibit 169.

The CLERK. Government Exhibit 169 marked in evidence

[Government Exhibit 169 marked in evidence.]

Mr. DOUB. May I see that?

Mr. WEINER. Surely.

[1087] Now, if Your Honor please, I would like to exhibit to the jury for their examination printed mortgage form Government Exhibit 169.

By Mr. WEINER:

Q. Now, Mr. Adelberg, is it not a fact that this corrective instrument that you prepared was never even fully executed or even placed of record to correct this?—A. I would not know that, Mr. Weiner.

Q. You mean you just gave it to Mr. Robinson?—A. I prepared it in final form, gave it to Mr. Robinson. Certainly, Mr. Cassell was not in the office to execute it. He was the president of the firm and he simply left with it.

Q. You never followed through to see whether——.—A. That was not my job. Mr. Robinson presumably is a lawyer. He is house lawyer or representative of this building and loan association. He delivered the papers and that completed it as far as I was concerned.

* * * * *

The COURT. Members of the Jury, I have just overruled the motions of the defendant that the Government not be allowed to use the grand jury testimony of the Defendant Johnson and the Defendant Boykin when cross examining the respective defendants.

Mr. WILLIAMS. I didn't make any such motion as that on behalf of Boykin for cross examination purposes. That wasn't my argument.

The COURT. All right. Well, it was made by Mr. Doub. I overrule the motion of the Defendant Johnson that the testimony given by Mr. Johnson to the grand jury not be used.

We will make such rulings as may be necessary then if and when Mr. Boykin takes the stand. I had understood that was the motion or part of the motion, as well as other parts. [1088] You may go ahead and cross examine using the transcript, if you wish.

Thereupon, THOMAS F. JOHNSON resumed the stand and testified further as follows:

CROSS EXAMINATION (continued)

By Mr. MARION:

Q. Congressman, it is a fact, is it not, that on September 25, 1962, you did testify under oath before the Federal grand jury?—A. I did.

* * * * *

Do I understand from what you testified that you don't recall whether you actually delivered the speech or whether the written copy was merely submitted to the Clerk?—A. Mr. Marion, I do not. It was such an insignificant speech that I do not recall whether it was just handed to the Clerk, as we often do, or whether it was delivered or delivered in part.

Mr. DOUB. Will you ask him what he means by "delivered in part?"

By Mr. MARION:

Q. Would you answer Mr. Doub's question?—A. In part, after the close of the business session of the House of Representatives usually the members of Congress like to insert in the Congressional Record certain remarks. They may do that either by taking the written memorandum, giving it to the Clerk, asking it be inserted, or they may take the well, as we term it, give a part of the speech, and then ask that so much be considered reading all of the speech, or it may be delivered in full.

Q. As a matter of fact, Congressman, did you not deliver the speech in full on the floor of the House of Congress?—A. Mr. Marion, I could have. I do not recall.

[1089] Q. Let me refresh your recollection, if I might, from page 12 of the Federal grand jury transcript, beginning with the question on line 15:

> Directing your attention, Congressman, to June 30, 1960, you made a speech on the floor of the House of Representatives, is that correct?
>
> Answer: That is true.

Is that correct?—A. Yes, it was a very loose concept. We are charged with anything that appears in the Record. When we say make a speech, even if we hand it to the Clerk, we call that making a speech.

Q. Your testimony here is you don't recall exactly how that speech was delivered?—A. As I say, it was such an insignificant speech that had been made so much about, I do not even recall having made the speech at this time.

Q. Now, Congressman, you told Mr. Estabrook on December 20, 1961, in London, did you not, that this speech had been made at the urging of several of your own people or of your own constituents? Is that not a fact?—A. Which conference are you speaking of with Mr. Estabrook?

Q. I am asking you whether or not that day you told that to Mr. Estabrook?

Mr. DOUB. Which telephone call?

The COURT. Do you mean on the first call or the second one?

Mr. MARION. On either one, did you make that statement, or do you recall?

The WITNESS. I do not recall. I testified that the first telephone call was made at some 2:30 in the morning and I did not recall what was said to Mr. Estabrook.

By Mr. MARION:

Q. Mr. Estabrook, I believe, testified, Congressman, that [1090] this language was used by you in the second telephone call when you called him back at approximately noon on December 20, did you at that time tell him that this——

Mr. DOUB. Show him the record on that.

Mr. MARION. Do you have it?

I do not have it here.

By Mr. MARION:

Q. My question to the Congressman is whether or not you told him that in a second telephone conversation in London on December 20, 1961?—A. Mr. Marion, I do not recall what was said.

Q. You do not recall either of the two conversations?—A. I recall talking to Mr. Estabrook but he did not see me personally. All of the conversation was over the phone. One at 2:30 in the morning and the other I do not recall—some time the next day. I just do not recall.

Q. As a matter of fact, Congressman, no savings and loan official from the Eastern Shore ever talked to you about making such a speech on the floor of the House of Representatives, did they?—A. I do not recall of any.

Q. And no constituent of yours ever talked to you about making such a speech on the floor of the House of Congress?—A. Well, Mr. Buarque—who was certainly very much of a constituent, he was in the office—he certainly talked with me rather strongly to answer what he felt and I felt too, was a most unfair attack on the savings and loan institutions.

Q. Excepting Mr. Buarque who was your administrative assistant, did any constituent of yours request you to make that speech on the floor of the House of Congress?—A. I recall one

visit a gentleman who has testified, Heflin, stating that he represented as Public Relations, certain savings and loan.

Q. Was Mr. Heflin a constituent of yours?—A. No. But he stated he did represent the savings and loans.

[1091] Q. Did he represent any savings and loans in your district?—A. I do not know.

Q. You did not inquire of him about that?—A. I did not because I only talked with him a very few minutes, let him with Mr. Buarque.

Q. As a matter of fact, then, except for Mr. Buarque, whom you term a constituent, no constituent of yours ever spoke to you about making that speech on the floor ofthe House of Congress, is that not correct?—A. It could be. I do not recall.

Q. You would be—you would not deny it?—A. No.

Q. Is it not a fact that prior to that speech Congressman, you had never discussed savings and loan programs or problems with any of your constituents on the Eastern Shore of Maryland?—A. Oh, I think possibly I had. I do not know to what degree but I want to say too, that the speech you refer to there was a motivation that Mr. Buarque testified that I was interested in a statewide election for the Senate in 1964.

* * * * *

Q. Let me refresh your recollection if I might once again, from page 10, first of all, of your Federal Grand Jury testimony. Beginning at line 20.

> Did you ever discuss any of the problems of the savings and loan industry with any savings and loan people who were your constituent prior to June 30, 1960?
>
> Answer: I do not know of any. If you could direct my attention to specific—
>
> Question: No, I could not do that.
>
> Answer: I could have but I do not recall.

* * * * *

[1092] By Mr. MARION:

Q. Congressman, on Thursday the second of May, you were asked about a meeting with Mr. Heflin, and I am reading from page 3193 of the transcript, and the question was:

> Q. Now, where do you recall meeting a Mr. Heflin?—A. After Mr. Heflin testified I recall that I had met him once at the Congressional Hotel.

Q. Is that at a luncheon?—A. That was at a luncheon that Marshall Diggs wanted to discuss the Bridge matter and I did not know Mr. Heflin was there until he testified, and I would accept his word he was there.

Is it not a fact, Congressman, that prior to that statement on Thursday, May 2, you had testified and told both the Federal Grand Jury on September 25, 1962, and the Montgomery County Grand Jury on May 9, 1962, that you remembered meeting with Mr. Edlin and Mr. Heflin prior to May 27 in the Congressional Hotel?—A. Would you let me know what page of the Federal Grand Jury you refer to?

Q. Beginning on page 18. Page 21, line 21, I am sorry, of page 18.

Did Mr. Kenneth Edlin ever mention the speech with you prior to mentioning the possibility of your making the speech?—A. I do not recall on that.

Q. Did Mr. Robinson?—A. ——

Mr. DOUB. Just a moment. You misquoted his testimony. He testified here at page 3193?

Now, do you recall thereafter in June, 1960, Mr. Heflin coming to your office to speak to you?—A. I do remember his coming in my office.

Q. Tell the jury of your conversation with him, Mr. Johnson.

[1093] And then he proceeds to tell about that.

Mr. MARION. My question is based on his statement in this Court that he did not recall Mr. Heflin's meeting with him at the Congressional Hotel until Mr. Heflin came on the stand and testified about it, himself. I read further from your Federal Grand Jury testimony.

Q. Did Mr. Robinson?—A. I do not think Mr. Robinson did. Mr. Edlin may have when I met Mr. Heflin at the hotel but I do not recall.

Q. Who did you meet at the hotel?—A. I said I mentioned there that I thought I had met Mr. Heflin once at the Congressional and I believe that Mr. Edlin and a group were with him.

And prior to that time?—A. Wait you asked me a question. I do not know what your question is.

Q. Well, did you not know when you testified before the Federal Grand Jury that you had met Mr. Heflin at the Con-

gressional Hotel?—A. I told you that I may have met him at the Hotel. That was the incident that I had no recollection of. It was refreshed when Mr. Heflin testified but it was so insignificant as to the meeting because Mr. Diggs had refreshed my recollection that it was on the Bridge matter, that there was a meeting and we, of course, were in constant meetings in Washington, and it is difficult to remember exactly who was present and when.

Q. Yes, and before the Montgomery County Grand Jury also, Congressman, did you not recall that luncheon meeting and recall that you had met Mr. Heflin at that meeting?—A. I may have.

Q. Let me refresh your recollection then on page 48 of the Montgomery County Grand Jury transcript.

> Q. Do you recall a conference or meeting you had with Mr. Edlin, Mr. Rains being present and a man by the name of Heflin?—A. Heflin is the one I am talking about on that.
>
> [1094] Q. Do you recall that meeting?—A. I do not recall specifically on that.
>
> Q. Can you refresh your recollection? Did you or did you not have a meeting with J. Kenneth Edlin in regard to that speech?—A. If I remember correctly, I believe it was. They were having lunch over at the Congressional Hotel and I think I just stopped by.
>
> Q. And was there a conversation at that time with Mr. Edlin in regard to remarks that he would like to have you make on the House Floor in regard to building and loans?—A. It could be. But I do not recall anything about that.
>
> Q. It could have happened.—A. It could. But I say we have so many who want to make remarks and want to put things in but at that time there was no legislation pending before us or anything.

Was that your testimony before the Montgomery County Grand Jury?—A. Yes, and I think it bears out exactly what has been said since. That I would like to refresh again that in Washington almost daily we are confronted with individuals who want remarks put in the record, or speeches made so it is a very common thing to have a request made of that sort.

Q. So you would not deny then, Congressman, that Mr. Edlin may have talked with you about making a speech which

he wished made on the floor of the House of Congress?—A. He could have but I say, I do not recall his ever doing it.

Q. And, therefore, your testimony would not quite be correct on page 3196 of the transcript in this case when you said "Absolutely not," that Kenneth Edlin had ever said anything to you about making a speech?

The COURT. It is not a question of whether he thinks his testimony is correct. That is for the jury to say. The question is, you may ask him if he wishes to change his testimony.

[1095] By Mr. MARION:

Q. Would you wish to change that?—A. No, I have no recollection of Mr. Edlin ever asking me about a speech or making a speech. Absolutely none.

Q. Now, Mr. Heflin was introduced to you at the luncheon in the Congressional Hotel, was he not, by Mr. Edlin?—A. It could have been by Mr. Edlin. Mr. Diggs refreshed may recollection and I gather from the testimony that maybe Mr. Diggs was the one and not Mr. Edlin but I do not recall.

Q. You never knew Mr. Diggs, rather, Mr. Heflin to have any connection with the Assateague Island Bridge Matter, did you?—A. No, but Mr. Diggs informed that he was a friend of his but that was later.

Q. You did know that Mr. Heflin had an association with a group of savings and loan associations, did you not?—A. Well, I was told that either at the luncheon or later.

Q. And did you not tell Mr. Heflin when he came to see you in your office after that luncheon that he should work with Mr. Buarque on the preparation of the speech which was ultimately given on June 30?—A. My statement is the same as it has always been that Mr. Heflin came to my office, representing himself as a public relations man, for a certain institute of Independent Savings and Loan Associations. He had the article of one of the local newspapers. A very unfair attack which he claimed had been made on savings and loans. He talked with me a very short time. I told him that Mr. Buarque, my administrative assistant, did all of my writing, all of the conversations and if there were any answers to be made,—he went out with me to the next room, met Mr. Buarque and I left the two together.

I did not see Mr. Heflin any more until the day he arrived in the court.

Q. You told him, did you not, that he should work with [1096] Mr. Buarque on the matter since Mr. Buarque prepared your speeches?—A. I told him at the time to discuss it with Mr. Buarque and any arrangements Mr. Buarque wanted to make, why, he, of course, would be cooperative with him.

Q. After the speech had been made on June 30, Congressman, the matter was closed as far as you were concerned, was it not?—A. Not only closed but completely forgotten until some politics got into it.

Q. So you really had no intention, did you, of using that speech as a statewide issue?—A. I thought we would get better release on it but it was not received very well in the press and I do not think anything was ever said.

Q. As a matter of fact, you told the State Senator, John Clarence North three days later that you had no further interest in the matter, did you not?—A. I think that should be clarified. Senator North came to my office with two members of the Maryland Savings and Loan League representing the Federally chartered institutions. They were concerned with speeches being made in Congress by Congressmen King, Utt and particularly the one that I had delivered on June 30. They wanted to know whether or not I intended to make further speeches.

I told them I had made the speech. It was my obligation as a Congressman to answer what I thought was an unfair attack on innocent savings and loan associations.

I had answered the charge. I had no further interest whatsoever in the subject matter. One savings and loan association did not mean any more to me than another. They were very thankful for the fact that I had no further interest.

We passed certain pleasantries and they left.

Q. Now, you say that at that time—I assume you meant at the time of the speech—that one savings association meant nothing more to you than another. Is that what you [1097] referred to?—A. Not only then but following the speech, too.

Q. I believe you testified on direct examination that you did not know the name of First Continental Savings and Loan or First Colony Savings and Loan at the time this speech was delivered on June 30, is that your testimony?—A. I think my testimony is that one name did not mean more than another. That in reviewing my file, in the bridge corporation, I think one association, either First Continental was named or First Colony,

but it meant nothing in passing. That is the only reference that I knew.

Q. Did it mean anything to you at the time of the speech in June, of 1960?—A. Absolutely not. I had no idea of who First Colony or First Continental was in respect to their ownership or anything about them.

Q. Now, your speech was finally delivered or submitted to the clerk and it was printed in the Congressional Record, and it stresses the value of commercial mortgage guaranty insurance, does it not?—A. I think it has a reference to it, yes.

Q. Isn't it a fact that at the time of the speech, First Continental and First Colony were the only independent savings and loan associations in the State of Maryland which carried commercial mortgage guaranty insurance?—A. I have no knowledge of that and did not know at the time.

Q. You have no knowledge of that?—A. None, whatever.

Q. As a matter of fact, that language in your speech, Congressman, was a part of the language which Mr. Edlin emphasized in his reprint, was it not?—A. May I say that I did not see any of the so-called "reprints." The first one I ever did see was in the court room here of any marked "reprints."

Q. And is it not also a fact, Congressman, that the St. Lawrence Insurance Company was the insurance com- [1098] pany which, at that time, insuranced [sic] the mortgage port-folio of only two independent savings and loan associations in Maryland. First Colony and First Continental, as of June 30?—A. I did not know at that time. I did know later that St. Lawrence, but it was much later.

Q. As a matter of fact, Congressman, on the very day you gave the speech, on June 30, 1960, you were conferring in your office, were you not with a Mr. Passman, an attorney from Chicago who represented the St. Lawrence Insurance Company about the possibility of your representing that insurance company in the State of Maryland?—A. Mr. Passman came to my office. He was an attorney from Chicago. He wanted to know whether or not I would represent his client. I made inquiry as to whether or not there were to be services performed for his client. I found they could not. I wrote Mr. Passman and told him that nothing could be done. There was no fee to be charged and I think you have a letter and may I see that letter that you have which confirms that?

The COURT. Mr. Johnson, that is not in answer to the question. Will you answer the question Mr. Marion asked and then you can explain that if necessary.

The question was whether on June 30 you had a conference with this attorney for a company with regard to possible representation.

The WITNESS. I had a conference but if you would let me see the letter to refresh my mind——

Mr. MARION. I ask that that be marked.

The CLERK. Government Exhibit 172 marked for identification.

[Government Exhibit 172 marked for identification.]

Mr. DOUB. May I see that?

By Mr. MARION:

Q. I show you Government Exhibit 172 for identification and ask if your mind is refreshed that on June 30, 1960 [1099] you met Mr. Passman—the attorney, for the St. Lawrence Insurance Co. in your Congressional office in Washington?—A. I did because this letter under date of July 1, 1960, says—

> I wish to thank you for your graciousness in affording me the courtesy of your time yesterday, especially since you were so extremely busy.
>
> Enclosed is the resume of the information and thinking involving the possibility of the admission by the State of Maryland of St. Lawrence Insurance Company as a foreign company under Section 31 of the laws of Maryland relating to Insurance (1953.)
>
> While on the surface, Section 31 does not specifically require a three year existence for admission, the practical existence of this limitation is the reason for the problem confronting us. St. Lawrence received its authority on June 30, 1959, as an Illinois Company (enclosed is a copy of the above mentioned authority). Due to the fact that it is necessary to obtain admission, we require a local counsel in Maryland to pursue the effort necessary to obtain admission. This letter is for the purpose of acquainting you with some basic information so that you may be in a position to determine whether you would be willing to undertake the representation of St. Lawrence Insurance Company in this instance.
>
> Please inform me as to your decision if you do decide to represent my client, and what other information may

be required by the State. I would also like to know your thinking as to your fee.

I regret that, in addition to your press of business my time was too limited to permit the acceptance of your kind offer to see first hand the working of the "wheels of government." Since there is a rather pressing time element involved, a prompt reply would be appreciated.

Yours truly,

HAROLD L. PASSMAN.

[1100] The COURT. Now, the question is not about what happened afterwards. The question is whether you had a conference with this man on that day and I gather the answer is yes; now go on to the next question.

By Mr. MARION:

Q. While Mr. Passman was in your office, that day, you also called the Deputy Insurance Commissioner of Maryland in Baltimore on his behalf, did you not?—A. I could have. I do not recall.

Mr. MARION. We will offer this letter which has been read to the jury.

The CLERK. Government Exhibit 172 marked in evidence.

[Government Exhibit 172 marked in evidence.]

The WITNESS. May I also attach to that the attachment that went with it?

The COURT. Has it any materiality to the question which was put?

Mr. DOUB. Your Honor, we do not under the circumstances understand the materiality of the question.

The COURT. It is obvious to me, and if you wish me to explain: I think it will be obvious to the jury; if you want me to explain to the jury, why, I think it is obvious, but I will.

By Mr. MARION:

Q. Congressman, is it not a fact that Mr. Edlin was the man who introduced you to Mr. Passman and to the St. Lawrence Insurance Co.?—A. I do not recall.

Q. You do not deny that that is possible?—A. I do not deny. I do not recall. It may have been Mr. Robinson or it may have been referred to me by someone else.

I do want to say I did advise Mr. Passman that I could not represent him and there was no fee paid.

[1101] Q. As a matter of fact, Congressman, when you later in your testimony in the late fall or early winter of 1960 inquired

of the insurance Commissioner of Maryland with respect to a matter of group life insurance on shareholders, you were at that time interested in the St. Lawrence Company, were you not?—A. I think in my direct testimony I stated that possibly October or November that there was a request for group life and one of the companies was the St. Lawrence.

Q. That was the same group?—A. The same company.

Q. Is that correct?—A. Yes.

Q. And, as a matter of fact, the president of that company was Mr. S. M. Simon, was it not?—A. Yes.

Q. He was the man I think you testified you corresponded with in 1961 with respect to the trustee's bond in Charles County, I believe you introduced a letter to you which was signed by Mr. Simon?—A. Yes, to explain to the jury that, when Mr. Carrico told me I had to have a $6 million bond with a $24,000 premium, I began to look around and tried to see what would be the lowest premium that could be secured for that bond, so I did get in touch with Mr. Simon, whether he wanted to bid or be interested in supplying that bond.

Q. Now, is it not a fact that prior to your speech on June 30, in the course of your dealings with Mr. Robinson and Mr. Edlin involving the Assateague Island Bridge matter that they had advised you that they represented First Colony and First Continental and you knew that at that time?—A. I do not recall their telling me. I know that there was a communication, a letter that I received, I believe, from Mr. Robinson mentioning First Colony. They could have mentioned it but I do not recall.

Q. Let me refresh your recollection from your Montgomery County Grand Jury testimony, beginning on page 3, and the questioning relates to the time when you met Mr. Edlin.—A. Is that page 3?

[1102] Q. Yes, and I am reading from near the bottom, the last answer of that page.

> A. I met him through a Mr. Marshall Diggs, who was Chairman, I believe, of the Bridge Company. Mr. Diggs along with the Associates of the Bridge concern brought Mr. Edlin and I believe a Mr. Robinson to my office to discuss this bridge loan. The purpose of that meeting was to secure a loan from Mr. Edlin or well, from his associates there. He mentioned First Continental Mortgage and First Colony at that time,

and then skipping over your testimony on the top of that page, and the question in the middle of that page:

> Q. How did he hold himself out to you, sir, at that time, in regard to First Continental and First Colony?—A. Well, I would like to—I want to finish there but the legal work was done by Mr. Robinson or a memorandum was prepared. Mr. Edlin held himself out as he termed himself, an underwriter.
>
> Q. For First Continental and First Colony?—A. And First Continental Mortgage Company.
>
> Q. And First Continental Mortgage Company?—A. Yes.

Refreshing your recollection further from your Federal Grand Jury testimony, on page 23—the question:

> Q. Now, what were Mr. Edlin's financial institutions which he represented or held himself out to represent?—A. At the time of the bridge, he stated the First Continental.
>
> Q. Mortgage Company?—A. There was the First Continental Mortgage Company?
>
> Q. Of Miami?—A. Right. The First Continental Savings and Loan in Chevy Chase or Bethesda, I do not know which it is, the First Colony in Southern Maryland. He also stated that he was interested in the two banks which were helping in the financing.
>
> [1103] Q. Gotham Bank?—A. Yes, and one in Chicago.
>
> Q. Southside?—A. Yes.

So, it is not true, Congressman, that you knew about First Colony and First Continental at the time this speech was made through your associations with Mr. Edlin and Mr. Robinson?—A. It could have been mentioned, First Colony. There was a memorandum submitted. The Bridge Company were seeking a $1.7 million loan. I do not recall First Continental being mentioned. It could have been but I do not recall at any time ever discussing First Continental Savings and Loan.

The COURT. Do you dispute that you gave the testimony Mr. Marion read?

The WITNESS. No, I do not dispute it. I possibly could have been wrong as to First Continental Savings and Loan. I know they mentioned First Continental Savings and Loan.

By Mr. MARION:

Q. At the time of your speech, Congressman, Mr. Buarque's research indicated did it not, that there were at that time three indicated institutions in the State of Maryland?—A. Yes.

Q. That is correct?—A. According to his testimony, yes.

Q. And one of those institutions was First Colony Savings and Loan Association along with Mr. Edlin, right?—A. I found out later that was true, yes.

Q. Did you not know that at the time you gave the speech?—A. I absolutely did not know at that time.

Q. Congressman, do you mean to tell the jury that Mr. Buarque put that language in the speech about three indicted institutions and none convicted, and you did not inquire as to which particular institutions they were?—A. He did not tell me which they were, the names.

Q. Well, let me ask you this: How could you, if you did [1104] not know which institutions were under indictment, how could you make this statement in your speech:

> I personally do not know any of these institutions nor any of the circumstances leading to their respective indictments. I hold no brief for any of them, one way or another.

That is the language of your speech, is it not?—A. Yes, I said that is the prepared speech which had been testified that Mr. Buarque with some help from Heflin, prepared.

Q. And do you mean that you made the statement in that speech that you, personally, did not know which institutions were then under indictment without knowing with institutions in fact were under indictment?—A. Not only did I not know then, I do not know now.

* * * * *

Q. And is it not further a fact in the prepared statement you do not state any where in there that you had met Mr. Robinson at any time prior to August of 1960?—A. I don't know. If you say it is not in here, it is not, but I don't recall being asked.

Q. Let me refresh your recollection. As a matter of fact, when you discussed the Assateague matter in your first meeting with Mr. Edlin you never mentioned Mr. Robinson. I will read your prepared statement. I am reading from the top of page 2.

* * * * *

I wish to say as to Mr. Edlin, to the best of my knowledge he was introduced to me during the winter of 1960 by Marshall Diggs, Esquire, Chairman of the Assateague Island Corporation, as one who was interested in providing financing for the proposed bridge to Assateague Island in Worcester County, Maryland.

At that time and for some time previously I had been acting as one of the attorneys for the bridge group. The group met with Mr. Edlin only a few times as the [1105] negotiations were soon terminated since the State of Maryland agreed to build the bridge from public funds.

Then you have a paragraph about the speech on June 30th, and then your first mention of Mr. Robinson is in this paragraph:

During the latter part of August, 1960, I had a visit at my Washington office from Mr. William L. Robinson, advising that he was General Counsel for certain savings and loan associations and a mortgage company in Florida. He stated he was not a member of the Maryland Bar, and as the mortgages securing the loans were for the most part on Maryland properties, he would like local Maryland counsel and would my firm serve.

* * * * *

Q. Is that portion of the statement which I have read correctly stated, Congressman?—A. It is correctly stated that Mr. Robinson came to my office some time, I think, in August or September. To the best of my recollection I wasn't asked when I first met Mr. Robinson.

* * * * *

By Mr. MARION:

Q. I show you, Congressman Johnson, Government's Exhibit 60–A, which is a check, I believe you have identified this, dated August 30, 1960, in the amount of $1,000 to you from Mr. Robinson?—A. That is true.

Q. I ask you where you were when you received that check?—A. I do not know where I was when I received it. Either through the mail or in the office, but I did receive it, deposited it in my legal account.

Q. And did you receive it from Mr. Robinson?—A. Either directly or through the mail.

Q. And was there any covering letter which accompanied that check?—A. I don't recall.

[1106] Q. Now, you testified that some time in August or September you began work on a matter which involved the Engineering and Development Corporation on a tract of land known as Apple Grove in Prince Georges County. Is that correct?—A. Yes, it is correct, and I think I testified that.

Q. My question was that is correct, is it not?—A. That is right.

Q. And there was a settlement with respect to the acquisition of that tract by Engineering and Development Corporation, was there not?—A. That is true. I did not participate in it.

Q. Do you know when that was?—A. It was either September 2 or September 6, 1960.

Q. And do you know where that settlement took place?—A. I think at Congressman Sasscer's office at Upper Marlboro.

Q. You were not there?—A. No, I did not participate in the settlement.

Q. Who was the seller in that transaction?—A. May I have my records on that?

The COURT. Yes.

Mr. DOUB. Do you want the exhibits on Engineering and Development?

The WITNESS. My folder is missing on it. It is marked for identification.

The CLERK. I have it. It is part of 50, I believe, and 50-A through 50-H have been received in evidence and the rest are not.

The WITNESS. Mr. Marion, without going through all the records to say I did not handle this, it indicates that Hopkins and Wayson, Inc. I presume they held the second mortgage, and I presume they were the ones selling.

[1107] Mr. DOUB. I can't hear you, Mr. Johnson.

Mr. MARION. He said he presumed that Hopkins and Wayson were the sellers.

The WITNESS. But the negotiations were between First Continental Savings and Loan Association and the Engineering and Development Corporation of Maryland. That is the Apple Grove transaction.

By Mr. MARION:

Q. Who represented Hopkins and Wayson, Congressman?—A. I say, I wasn't present. Only from what I have been told.

Q. Who represented Engineering and Development Corporation in that matter?—A. I think Mr. Robinson and a local attorney in Baltimore, Mr. Berman, as I recall. I was told that.

Q. They represented Engineering and Development or represented First Continental?—A. No. First Continental Savings and Loan.

Q. Who represented Engineering and Development Corporation?—A. I do not know. I wasn't present.

Q. You had no contact with any attorney for Engineering and Development Corporation?—A. I did not.

Q. And what contact did you have with Mr. Berman, whom you say represented First Continental?—A. I had not contact. I was told that Mr. Berman was no longer serving as counsel with Mr. Robinson. That was some time about the first of September.

Q. Do you know who recorded the original instruments in that matter?—A. I do not.

Q. Do you know when they were recorded?—A. No, I do not.

Q. And isn't it a fact, Congressman, that you never saw the original documents in that transaction?—A. You mean the ones that were recorded?

[1108] Q. The ones ultimately recorded.—A. I probably did not see the original, only copies.

Q. Yes, and the originals were in the possession of Mr. Berman, a Baltimore lawyer, were they not?—A. As I say, I did not handle the closing or the preparation of this particular loan.

Q. But the original documents, of which you have copies in your file, were in the possession of Mr. Berman, were they not?—A. I do not know.

Q. And is it not a fact that he did legal work on this transaction, billed First Continental, and was paid for his legal work on that particular transaction?—A. Again, hearsay. I was told that he was an attorney working with Robinson. Some disagreement arose, and it was over this transaction, as I understand, there was termination of that representation by Mr. Berman.

Q. And during September of 1960, at the time this was going on, you were engaged, were you not, Congressman, in a campaign for reelection?—A. I am always engaged in a campaign for reelection during the year.

Q. Now, in connection with the Engineering and Development matter in August or September of 1960, Congressman,

you prepared no legal memorandum of any sort, did you?—A. You are speaking now of the Apple Grove?

Q. That is correct.—A. I do not recall. I would have to go through my file and see.

Q. You have a file on your lap, do you not?—A. I have one here, yes.

Q. Do you have any others?—A. Well, I was told that some of my files are missing, and Mr. Robinson has some. Some are in the Baltimore office.

Q. You mean you don't have, with all of these files that you have on the table here, you don't have all of your files on this Engineering and Development Corporation matter?—A. I do not, no.

[1109] The COURT. Well, the witness has said that he doesn't recall preparing any papers in connection with it. Why not move on to something else?

By Mr. MARION:

Q. You never prepared any letter, did you, Congressman, containing any legal opinion or legal conclusions on this Apple Grove matter?—A. I do not recall. I do know that the first thing that came to my attention was the $100,000 escrow agreement which——

Q. Congressman, I don't think that is responsive to my question. My question was, you prepared no letter, did you containing any legal opinion or any legal conclusion?—A. I say, I do not recall of a letter. I could have done. I do know that I did considerable research, legal research on this matter, work with Mr. Robinson, and we had many hours of discussion, because it involved a $100,000 escrow account, and I would never approve legally the release of it.

Q. The party of interest in Engineering and Development Corporation was a man by the name of Albert Kastner, was it not?—A. That is true.

Q. Isn't it a fact you never talked to him about that particular loan?—A. I think he was in my office on one occasion.

Q. Was there discussion about this loan on that occasion?—A. If it was, it was only on the escrow account, and then Mr. Kastner also contacted me in respect to a second proposed loan or loan of the Saverian Development Corporation, which I prepared the charter for him.

Q. At how many conferences were you present where Mr. Kastner was present?—A. Very few, because my work was

entirely that of legal. I did nothing as to negotiations for the loans. My work was with Mr. Robinson.

Q. When you say very few, do you mean, two, one?—A. It could be one, two, three, I don't remember.

[1110] Q. So it could have been none?—A. No, I know that Mr. Kastner was in the office because I had the pleasure of meeting him one or more times.

Q. At that time there was no negotiation with respect to this loan, was there?—A. You are speaking of the Apple Grove?

Q. That is correct.—A. Only the escrow account, the $100,000.

Q. And you say you discussed that matter with Mr. Kastner in your office in Washington?—A. He was in the office, but I do not recall what discussion I had, but I had met Mr. Kastner either one or more times.

Q. Now, Congressman, in this particular transaction of the Apple Grove property, the transaction which you say you reviewed in August or September of 1960, there was only one mortgage in this particular transaction, although there were two mortgage notes?—A. That is true.

Q. Is that not correct?—A. That is true, aggregating $798,000.

Q. Could you have been in error. Congressman, when you told the Montgomery County Grand Jury that there were two mortgages in this particular transaction?—A. Well, it could be in error. There were two mortgage notes. They were secured by one mortgage.

Q. Let me read you your question and answer on page 10 of the Montgomery County transcript:

> Did you give any legal advice or were you involved in negotiations in regard to a certain mortgage from Engineering and Development Corporation of Maryland to the First Continental Savings and Loan Association in the amount of $798,000?
>
> Answer: As I stated there, that he asked for legal opinion from me dealing with whether that was properly drawn, what comments I had. There were two [1111] mortgages. One was, I believe, $659,120, the other for $139,100, making a total of $798,220.

As a matter of fact, there was only the one mortgage?—A. There was only the one mortgage to secure the two notes.

Q. Now, prior to your testimony, Congressman, isn't it a fact that in the last several months you have discussed the legal matters which you testified to on direct examination here about this particular Engineering and Development Corporation loan with Harry Adelberg of Baltimore?—A. Mr. Marion, I do not recall discussing this particular loan with Mr. Adelberg. I did not know Mr. Adelberg had any interest whatsoever in it.

Q. I am speaking now in the last several months prior to your testimony here.—A. Your question is on the Engineering and Development?

Q. About the legal matters to which you have testified on direct examination.—A. Will you tell me which legal matters?

Q. Your testimony involving the Engineering and Development Corporation loan, the $798,000 transaction.—A. I could have discussed it with him, but I don't know why I would, because I don't think he was connected in any way with it.

Q. Haven't you also discussed that transaction with Mr. Robinson prior to the time you testified?—A. I have discussed it with several trying to refresh my recollection and trying to be able to intelligently testify. Unfortunately, I had not reviewed my file, did not know the facts when I testified at the previous occasions.

Q. How many times did you discuss the matter with Mr. Robinson?—A. Oh, I don't know, but you can rest assured that I made quite an effort because my life is at stake here and my family, and I have been trying to get every possible conceivable evidence of what I had done in respect to these transactions.

[1112] Q. And you have in the file there, Congressman, the papers which were admitted into evidence involving the Engineering and Development Corporation matter?—A. Yes.

Q. Which ones?—A. I think they were 50-A through H, if I am not mistaken.

The COURT. Mr. Marion, if you will face the jury then the witness will hear you and the jury will hear you better.

By Mr. MARION:

Q. Congressman, is it not a fact that those papers which were offered into evidence involving the Engineering and Development Corporation Exhibits 50–A through H contain a number of penciled notations that you are handwriting?—A. That is true, and with pen, too.

Q. And is it not also a fact that those notations have been placed on those papers since this investigation began?—A. Mr.

Marion, I could not say. I know that when I testified I made some memorandums before the Grand Jury. Which ones I did or did not, I can't say.

Q. Look specifically, if you will, Congressman, at the loan agreement.—A. Yes.

Q. Which is Exhibit 50–A, Defendant's Exhibit 50–A.—A. Yes.

Q. Is it not a fact that all of the penciled notations on that document were placed on there after the beginning of this investigation?—A. As I say, I do not know. They could have been. I do not recall.

Q. You don't recall when you placed them on there?—A. No.

Q. They were placed on there for the purpose of enabling you to testify from that document, were they not?—A. Well, some of these notations were to save time from having to thumb through the different provisions because in this loan agreement I did not prepare, I did not nego- [1113] tiate it, I came into the picture to review it, and there were only about two provisions that I was asked to review legally.

Q. Would you deny, Congressman——

The COURT. Is the answer yes to Mr. Marion's question, with the explanation?

The WITNESS. I say, I just don't know.

By Mr. MARION:

Q. Congressman, you furnished to the Federal Bureau of Investigation in January of 1962 Thermo-fax copies of several legal documents which you said came from your file, did you not?—A. Yes.

Q. And included among those was a Thermo-Fax copy of that loan agreement which has been introduced into evidence as Defendant's Exhibit 50–A. I show you this Thermo-Fax copy and ask you if you cannot identify that as the Thermo-Fax which you gave to the Federal Bureau of Investigation?—A. Yes, it could be. I don't know. It could be.

Q. And is it not a fact that that Thermo-Fax copy of Defendant's Exhibit 50–A contains no penciled notations?—A. Well, not on the fact of it.

Q. Do you want to look through it page by page?—A. Yes, just a minute.

I was looking to see whether I had another copy. If that was given to the FBI by me, there is no notation on the front of that.

Q. You don't deny that this is the copy which you gave them?—A. I don't deny. I just didn't know whether I had another copy it was taken from.

Q. Let me borrow this for a minute.

Mr. MARION. I would like to offer the Thermo-Fax copy, Your Honor.

* * * * *

[1114] Q. Now, in your file there in front of you, Defendant Exhibit 50-D, do you now have that, which is a carbon copy of a note in the amount of $84,000-some odd?—A. I do.

Q. And that contains a penciled notation in your handwriting, does it not?—A. Well, yes. Just three or four words.

Q. And that was put on there after the investigation, was it not?—A. I imagine it is just to explain the note.

Q. Let me show you a thermofax and see if that would clarify your recollection in that regard?—A. Yes. I will tell you, I have just on here "Repay the balance for the land." It is for my own information.

Q. And that is a thermofax copy which you gave to the FBI?—A. I do not dispute that at all.

The COURT. You do not need to put it in, Mr. Johnson agrees that on 50-D the note was put on for the purposes of the case.

By Mr. MARION:

Q. Now, on the pledge agreement—Defendant Exhibit 50-E, there are marginal notations in your handwriting, is that not so?—A. Yes, very minor ones.

Q. That was also put on after the investigation?—A. It could be. Unless it is shown otherwise.

Q. That was put on after the investigation?—A. There are two notes.

Q. Congressman, is it not a fact that including your testimony on direct examination in this case, you have furnished four different explanations as to the recommendations which you say you made to Mr. Robinson about the revising of these particular Engineering and Development corporate loan papers?—A. You will have to tell me which they are. I do not recall.

Q. Let me. Among the thermofax papers turned over [1115] to the Federal Bureau of Investigation in January of 1962, was a carbon copy of a letter purportedly written on August 25, 1960 from Berlin, Maryland, by you to William L. Robinson. Is that

a thermofax which you delivered to the FBI?—A. It could be. I would not say. I do not say it is not.

Q. And was there an original letter?—A. I presume so. I do not have it.

Q. You do not have it?—A. I mean Mr. Robinson would have that.

Q. You do not have that, the office copy of the letter?—A. I do not know. I do not have it in this folder.

* * * * *

Q. This letter does state, does it not, that "after reviewing our conference, there is no doubt the loan agreement must be rewritten in conformance with Maryland Law"?—A. That is true. That was my recommendation which I made to Mr. Robinson. I do not know whether you want me to explain the reason why.

Q. That is what that letter says, is that correct?—A. Yes.

Q. And in your testimony before the Montgomery County Grand Jury on pages 10 and 11, you testified in answer to a question as to what legal opinion you gave Mr. Robinson:

> A. Well, I advised him that I felt the notes were not proper, that it should be spelled out in the notes what was set forth in the loan agreements, and that the loan agreements should be put on record.

A. That is also true.

Q. You advised him there, did you not, that the notes should be written to incorporate what was in the loan agreement, is that correct?

The COURT. He says he so testified.

[1116] By Mr. MARION:

Q. And before the Federal Grand Jury, Congressman, on pages 26 and 27, you testified, and I am reading from your answer at the bottom of page 26:

> In the loan agreement there was a problem of whether or not the mortgage and notes conform to Maryland Law. I reviewed them and found that they did not. That the notes did not incorporate the terms of the mortgages. And that they should be rewritten.
>
> Q. The notes and mortgages should be rewritten?—A. No, that the notes should be rewritten to conform with the wording of the mortgages.

That was your testimony there, was it not?—A. Yes. I made quite a number of suggestions and I went on to state, if you will read on, that I made rather detailed searches, legal searches, and I found it dealt with future advances which is another problem of this large loan.

Q. And finally, you testified here in this trial on direct examination——

The COURT. On page—page?

Mr. MARION. Page 3220.

> I did not prepare the mortgage. Not mortgage, it refers to the loan agreement under date of September 20, 1960. I had serious question as to whether that is proper notice to any creditor or parties dealing with this development. That the loan agreement should be filed or the mortgage rewritten so that the terms of the loan agreement, the important terms, would be embodied in the mortgage.

That was your testimony on direct examination?—A. Yes, that is true.

* * * * *

[1117] Q. And on the next page, completing an answer on the next page, you said:

> I merely said that I preferred to have the loan agreement recorded on the mortgage rewritten so that the terms would embody the loan agreement terms.

Is that correct?—A. Yes, I think that is true, and I found serious trouble with the entire Apple Grove loan.

Q. Now, isn't it a fact, Congressman, that neither the mortgage or the two notes or the loan agreement was rewritten by you or by anyone else?—A. It was not rewritten.

Q. And did you not, in fact, claim before the Federal Grand Jury to have revised the mortgage notes in that transaction?—A. I don't recall. I may have.

Q. Let me refresh your recollection. On page 149.

Mr. DOUB. What page are you referring to?

Mr. MARION. Pages 149, beginning on line 9.

> Did you ever prepare a mortgage note?—A. I revised a mortgage note for that Kastner in the Engineering and Construction. I had all of that because, as I stated in my previous testimony, these notes did not conform with the mortgages, and they all had to be revised.

By Mr. MARION:

Q. And as a matter of fact, Congressman, those mortgage notes were not revised, were they?—A. Well, I had recommended. I understood they had, but I do not know.

* * * * *

The CLERK. Take the stand, sir. You are still under oath.

Thereupon, THOMAS JOHNSON, a defendant, appearing as a witness in his own behalf, hav-[1118]ing been previously sworn, resumed his testimony further as follows:

CROSS EXAMINATION

By Mr. MARION:

Q. Congressman, when we had recessed last Wednesday, shortly before the recess, I had shown you Government's Exhibit 174 which is a thermofax copy which you supplied the FBI in January, 1962 of what purports to be a copy of your letter to Mr. Robinson of August 25, 1960. That letter, Congressman, purports to be written from Berlin, does it not?—A. Yes.

Q. And as a matter of fact, on August 25, 1960, you were not in Berlin, were you?—A. I do not know. I do not know. I found this in my file.

Q. Congressman, the Congress was then in special session in Washington, D.C. in the last two weeks of August, 1960, was it not?—A. It could have been. I was in and out of the District during that period.

Q. And on August 25, you were actually in Washington, were you not?—A. I say, I do not know. I was back and forth. It was a campaign year and I was in the District, I would say, three or four times a week.

Mr. MARION. Let me refresh your recollection, Congressman. I show you Defendant Johnson's Exhibit 16 which is a listing of telephone calls made from your office in Washington for the last several months of 1960, and I show you that portion which deals with the period ending August 31, 1960, and direct your attention to page four and ask if this does not indicate that you made several calls on your Washington telephone on August 25, 1960 from Washington, D.C.?—A. Yes, I see two but we are only about two and a half hours from Washington.

Q. As a matter of fact, there are three calls, are there not, on the 25th of August?—A. Yes, there are three calls.

[1119] Q. One of those is a night call, is it not?—A. I cannot tell.

Q. I thought you had translated this in your direct testimony. The notation at the bottom indicates an "N" where a night call is placed at night rates, does it not, and beside one of those calls on the 25th over in the righthand column there is a notation of an "N" which indicates does it not, that that call was placed at night from your Washington Office?—A. Show it to me. You may be right but, as I say, I do not see it.

Q. "Call from Johnson on the 25th to Salisbury, 8 minutes, night rate." Is that correct?—A. Yes, but all of the calls—that could have been Mr. Buarque or anyone calling.

Q. Whose name does it indicate as the person calling from there?—A. Well, "Johnson." But they are all "Johnson" on there.

Q. Now, Congressman, as I understood it, your testimony on direct stated that you had formed the Savarin Development Corporation in connection with—the organization of that corporation for a loan in November of 1960 in connection with the Green Meadows Apartment House Project, is that correct?

Mr. DOUB. He did not testify to that.

The WITNESS. May I have my file?

Mr. MARION. If I am wrong, will you refresh my recollection?

The WITNESS. It is my recollection it was in December, I was asked to prepare a Maryland charter, which I did.

By Mr. MARION:

Q. In connection—that was in connection, was it not, according to your direct testimony, with an application by the Savarin Development Corporation for a loan in connection with the Green Meadows Apartment House project?—A. That is right.

[1120] Q. And is it not a fact, Congressman, that only a few months ago when you testified before the Federal Grand Jury, you knew so little about the formation of that corporation and that particular loan application that you told the Grand Jury that this corporation—this new corporation you formed, was a part of the correction of some problem which existed in the Engineering and Development Loan Back [sic] in September of 1960?—A. I do not recall. I think the records speak for themselves and may I say, in answer, that when I was before the grand jury as I told you and told Mr. Tydings, I had not re-

viewed my file. It came at a time when we were at the closing days of Congress with day and night sessions, campaigning—I could very easily have given you little information on it.

But the records speak for themselves, which have been introduced in evidence.

Q. You had your legal files with you at the time you appeared before the Federal Grand Jury, did you not?—A. I think I had most but I had not reviewed them.

Q. As a matter of fact, when you testified about this very matter, you were referring to your files, were you not?—A. I may have referred but as I say, I had not really reviewed to the extent of knowing the full facts.

Q. Let me refresh your recollection, Congressman, from your Federal Grand Jury testimony, beginning on line 24 of page 27.

"Q. Who was Mr. Kastner?"

A. What page was that?

Q. Page 27.

Q. Who was Mr. Kastner?—A. He was the Engineering Development Corporation.

Q. He was the key promotor in the Engineering Development Corporation?—A. Yes. My meetings were, for the most part, with Mr. Robinson. [1121] Mr. Robinson felt the money should be released. He said in Florida they could do it. I said in Maryland they could not. I would never approve. As a result, the $100,000 was never distributed. Another thing——

Q. Do you recall where the meetings were?—A. I think probably most of them were right in my office in Washington.

Q. Where were the meetings when Mr. Kastner was present?—A. I do not know on that. Possibly at the office. I do not remember.

Q. What was Mr. Kastner's position about the $100,000 escrow? Did he agree with you or fight you on that, or what?—A. The pressure was on Mr. Robinson between Kastner and he. And I did not get into that directly. Most of mine was with Robinson. Then it came to the point——

Q. Was Mr. Robinson representing Mr. Kastner at the time or was Mr. Robinson representing the lending institution?—A. The lending institution, yes.

Q. Did Mr. Kastner have any other attorney with him?—A. Not to my knowledge.

Q. Just Mr. Kastner alone and you and Mr. Robinson on the other side?—A. As far as I can recall.

Q. Now, ——. —A. We ran into another situation. There was to be a guarantee of this loan by three individuals, Albert——

Q. Let me ask you who drafted the loan agreement?—A. Mr. Robinson.

Q. Did you show it to any other attorneys?—A. I did not.

Q. You did not show it to Mr. Adelberg or anyone like that?—A. Not this particular one, no. Let me qualify that. Later we got a corporation which was prepared in the Baltimore office in this same——

[1122] Q. But you did not incorporate the Engineering Development Corporation?—A. No, what had happened was this. I was leading up to this. As further guarantee to the loan three individuals were to guarantee the loan. The loan carried more than the 6 per cent rate of interest. I questioned the legality of whether or not that would be binding. They asked what could be done. I said, if you had a corporation and had assets, that that corporation could guarantee. I was instructed to prepare a corporation to be incorporating these three individuals.

Q. Who incorporated them or who prepared it?—A. That was done in the Baltimore office, if I recall.

Q. The Baltimore office of——.—A. Mr. Adelberg.

Q. Harry Adelberg?—A. Yes, but it was never filed for some reason.

And you continued there, Congressman.

The COURT. What is the question?

Mr. MARION. I will stop at that point and ask the Congressman this question:

By Mr. MARION:

Q. Does that testimony not represent your testimony before the Federal Grand Jury?—A. Yes, that was my testimony.

Q. And continuing at that point, Congressman:

Q. Congressman, you have been referring to a file of papers which you brought with you. Would you identify for the grand jury and the reporter what that file of

papers is?—A. I have before me a portion of my file dealing with various transactions and legal matters dealing with various loans.

Q. Does this file, or did you bring this file in response to my request to bring all legal papers which pertained to the First Continental Savings and Loan, [1123] the First Colony Savings and Loan and Charles County Land Company and Leisure City?—A. Yes.

Q. Is this the file of papers which you permitted the FBI to make photostatic copies of or not?—A. I think there are some additional ones in there.

Q. There are some additional ones?—A. Yes.

Q. We have papers which you gave the FBI; could you show us the additional ones there?—A. I will have to go over them because——

Q. Are there many?—A. I have quite a number in here and I do not recall what was filed because, on this Engineering Development Corporation, I suspect there are 75 or 100 pages.

Q. Is this one complete file here that you have? Is this a complete file?—A. Well, no, it is not complete because some of it is in Baltimore, too, which I did not get.

Q. In other words, it is not complete now?—A. No.

Q. And the papers which you gave to the FBI were not complete either, is that right?—A. Well, it was not complete. No, all of them were not there.

Q. Were all of the important ones there?—A. I think all of the important papers were.

Q. And all of the important correspondence?—A. I think so, yes.

Was that your testimony?—A. It was.

Q. Congressman, is it not further a fact that you never mentioned in your prepared statement or statements to the FBI, you never mentioned before the Montgomery County Grand Jury and you never mentioned before the Federal Grand Jury the name of the Green Meadows Apartment House loan or the name of Savarin Development Corporation?—A. I think it is true but in [1124] reviewing my files, I found the papers. They are in evidence and they speak for themselves.

Q. And is it not also a fact that you never gave any papers relating to the Savarin Development Corporation to the FBI

when they came to your office in January of 1962?—A. Not to my knowledge. I do not think they asked for them.

Q. Specifically, Congressman, I show you Defendant Johnson's Exhibit 50-G which is a clipped file of papers relating to the Savarin Development application for a loan, and ask you whether or not it is true that you gave none of those papers to the FBI?—A. That is right.

Q. Where did you get those papers from before you testified here in Court?—A. I found them in one of the files.

Q. In one of whose files?—A. Presumably on the Engineering and Development Company.

Q. In whose office?—A. I think my office, or Mr. Robinson. I do not know which.

Q. Which office did you find them?—A. I say I do not know. But the other papers that I have in evidence giving the minutes and so forth were in my own file.

Q. You could have gotten that from Mr. Robinson, is that not correct?—A. I could have.

Q. Congressman, is it not further a fact that never, prior to your direct testimony in this case, did you indicate or testify before either the Montgomery County or Federal Grand Jury that you had performed any legal work for Mr. Robinson or for either First Continental or First Colony Savings and Loan after the Engineering and Development Corporation matter in September of 1960 until Mr. Robinson brought the Cassell matter to your attention in February of 1961?—A. I think that is true.

Q. As a matter of fact, Congressman, you even told the Attorney General of the State of Maryland, the Honorable Thomas B. Finan, that you personally, entered the [1125] legal picture of this entire matter when Congressman Boykin came on the scene and then only in connection with Congressman Boykin's real estate holdings, is that not correct?

* * * * *

Q. Did you not tell the Honorable Thomas B. Finan, Attorney General of the State of Maryland, that you personally, entered the entire legal picture in this matter when Congressman Boykin came on the scene and then only in connection with his real estate holdings?—A. I do not recall the conversation but certainly the records speak for themselves, the papers and so forth.

The COURT. Do you want to suggest when and where, Mr. Marion? It might refresh his recollection.

By Mr. MARION:

Q. Congressman, I show you what purports to be a two page letter with two attachments, apparently on your stationery to the Honorable Thomas B. Finan and ask you if that is your signature on page 2?

Mr. DOUB. What is the date of that?

Mr. MARION. It bears the date of January 10, 1962.—A. Yes, that is my signature.

* * * * *

Mr. MARION. Members of the Jury, the portion of the transcript of hearing which is enclosed as an attachment to the letter reads as follows:

> Now, if Your Honor please, we also find that Mr. Edlin, having had certain legal difficulties, has seen fit to use the Association's sums and funds to pay for his legal expenses and we are able to show that the Association has so far in 1961 on, an account called "Legal Services—Special," paid out a sum of $61,488.
>
> Now, part of that money, Your Honor, has been [1126] paid to a gentleman named Mr. Robinson who we have just advised you is a vice president of this association, and in addition, certain of these sums have been paid to a firm of Johnson & Johnson, to L. Caudle, Lamar Caudle, and others who have serviced Mr. Edlin.

Now, the letter is on the letterhead of the Congress of the United States, House of Representatives, letterhead of Thomas F. Johnson. It is addressed to the Honorable Thomas B. Finan, State Law Department, Mathieson Building, Baltimore, Maryland.

> DEAR TOM:
>
> I cannot tell you how unjust and incorrect were the remarks of your office at the recent hearing in Montgomery County, dealing with the First Continental Savings and Loan Association. Attached is a copy of that portion of the transcript which by innuendo my firm is supposed, in some vague way, to have been engaged in some nefarious dealing with the association and especially with one J. Kenneth Edlin.

I personally entered the picture of this entire situation at the request of my good friend and colleague, Congressman Frank Boykin. In connection with his real estate holdings, comprising some 13,000 acres, my firm and other legal associates were engaged to assist in some of the complex legal ramifications. Suffice to say, my firm acted as counsel for two land corporations which had been founded through the law office. For the work performed over a period of time, the law firm of course received nominal legal fees, and by communications in our files, these fees together with engineering and other costs, were to be paid from an escrow account at First Continental secured by a first mortgage on portions of the real estate. As I found the legal work required of my firm consumed more time than I could spare from my Congressional duties, I turned over a large portion of the work to attorneys in Virginia and Maryland, compensating them from the fees [1127] that had been paid my firm from the escrow accounts. Knowing that the subject matter is a political football in our State, certainly, you should have contacted me, as you must have known there was a proper explanation.

Then next, the uncalled publicity emanating from our Insurance Commissioner, Mr. Sears, should have told the press that the one or two meetings I had with him were perhaps a year or more ago, and that the case had been referred to our office by a Chicago attorney. He should have further stated that when he advised that the Life Company in Illinois could not qualify under the grandfather clause, I so notified clients and the matter was closed. The one or two conferences with the Commissioner were the beginning and the ending of the entire transaction, and no fee ever received.

Naturally, the situation greatly disturbed me, and I have no choice but to take the case directly to the people. At an early date I hope to have television time, as I feel the people of the Eastern Shore are entitled to know the precise circumstances under which I had any dealings with the parties mentioned. You may be as-

sured that on these radio talks and television speeches and other releases, I shall continue to fight as a loyal Democrat.

With kind personal regards, I am

Sincerely yours,

Tom

[S] THOMAS F. JOHNSON, M.C.

* * * * *

By Mr. MARION:

Q. Now, Congressman, it is true, it is not, that the Cassell matter was first referred to you by Mr. Robinson's letter [1128] to you of February 3, 1961 which has been introduced in evidence.—A. That is true, and I think the jury should understand more the explanation of that letter if I may be permitted, Your Honor, to give it.

Q. My question is as to the time the matter was referred to you?—A. The Cassell, in February.

Q. Yes, and——

* * * * *

By Mr. MARION:

Q. Wasn't the Engineering and Development Corporation a First Continental Loan, sir?—A. I think it is a participating loan but Mr. Robinson is the one who, at that time gave the retainer. I had one retainer during the year 1960.

Q. Now, do you know whether the Engineering and Development Corporation loan was a loan made by First Continental or not?—A. I have to refer to my file on that.

Q. Do you know independently of your reference to your files?—A. No, because, as I told you, the Apple Grove I did not participate in that only after it was made.

Q. Now, you said, Congressman, when I asked you a question about Cassell a moment ago——.—A. That is true, February, 1961.

Q. The Cassell matter was referred to you in February of 1961?—A. Yes.

Q. And you testified also, I believe, that the monthly retainer arrangement with Mr. Edlin and Mr. Robinson of $800 a month had been agreed upon in a conference in early January of 1961, at which time the Dranow $100,000 note was discussed. Is that your testimony?—A. That is true.

Q. Congressman, is it not a fact that in your prepared statement of January 23, 1962, you stated that the $800 a [1129] month retainer arrangement was agreed upon at the time Mr. Robinson brought you the Cassell matter, and I will show you the paragraph at the top of page four and ask if that refreshes your recollection?—A. Which statement is this—I have so many.

Q. This is your prepared statement of January 23, 1962 which was given to the FBI on that date.—A. Yes, I refer here that in early 1961 the Cassell matter was referred to me. I also mention about Mr. Robinson agreeing to the monthly sum of $800.

Q. At the time he brought the Cassell matter to your office?—A. You could infer but it is true this is not the correct situation if it is that inference, because that was agreed upon in January.

Q. Is that statement in that letter incorrect, Congressman?—A. Well, if the inference is drawn, as you drew it, it is not correct.

Q. And that statement which I just showed to you, the paragraph in your prepared statement read as follows, does it not:

> In early 1961 Mr. Robinson conferred with me in respect to the A. I. Cassell Land Corporation Loan involving hundreds of thousands of dollars, and a rather complicated transaction. To further complicate matters, a former Contractor by the name of H. B. Humphreys had also filed of record a lien on the entire tract of land which clouded further sales. Mr. Robinson brought the file to my office and asked in addition to the aforesaid lien, to review all of the mortgages. As this entailed several week's work Mr. Robinson suggested that he pay the law firm on a month-to-month basis and the sum of $800 was agreed upon. It is interesting to note that a review of the Cassell Mortgages disclosed that some $900,000 in mortgages were defective under Maryland law and new indentures had to be prepared to correct the mistakes. The arrangement of monthly legal services paid by Mr. [1130] Robinson as attorney continued for some four months and covered not only the Engineering and Construction Company-Cassell matter, but legal work on the Desser & Garfield transaction.

A. And many more which I did not mention.

• • • • •

Q. I show you Government Exhibit 61 which is a check to the order of Johnson & Johnson signed by W. L. Robinson, dated January 7, 1961, and ask you to state where you received that?—A. To the best of my recollection in Washington.

Q. And how did you receive it?—A. I do not know.

Q. Do you recall whether or not it was handed to you personally, or whether it came in the mail?—A. I do not recall. But I did receive it and deposited it to my legal account.

Q. From whom did you receive it?—A. I presume, Mr. Robinson.

Q. Do you recall whether or not there was any covering letter with that?—A. I do not recall.

The COURT. What number is that, is that a Government Exhibit?

Mr. MARION. Government Exhibit 61.

By Mr. MARION:

Q. I show you Government Exhibit 75 which is a check drawn on the account of W. L. Robinson, payable to the order of Johnson & Johnson, dated February 2, 1961 and ask you where you were you received that check?—A. In Washington.

Q. From whom did you receive it?—A. Mr. Robinson.

Q. Was that delivered to you, personally, or was that mailed to you?—A. I would not know that, one or the other.

[1131] Q. It came to your Congressional Office in Washington?—A. Yes, I received it in Washington.

Q. I show you Government Exhibit 78 which is a check drawn on the account of W. L. Robinson to the order of Johnson & Johnson, dated March 6, 1961 and ask you where you received that check?—A. In Washington and that is as the others.

Q. From whom did you receive it?—A. Mr. Robinson.

Q. Do you recall whether he handed that to you, personally, or mailed it to you?—A. I do not.

Q. I show you Government Exhibit 62 which is a check drawn on the account of W. L. Robinson to the order of Johnson & Johnson dated March 31, 1961 and ask you where you received that?—A. In Washington.

Q. From whom did you receive that?—A. Mr. Robinson.

Q. Was that hand delivered to you or mailed to you?—A. That I do not recall.

Q. Let me show you defendant Johnson Exhibit 57 which is a letter from Mr. Robinson, which purports to be mailed to Berlin, Maryland, and ask you if that refreshes your recollection and that that check was actually received by you in Berlin?—A. No, it does not. I do not know whether or not this was forwarded to me in Washington, sir.

Q. On March 31, 1961, were you not on the Eastern Shore?—A. I have no idea where I was on March 31.

Q. Wasn't this the time you testified that you had to go down to the District and, therefore, could not keep an appointment with Mr. Kennedy on the Thursday following March 25?—A. As I say, I would not recall.

Q. Weren't you down in Berlin for the Easter Recess at that time?

* * * * *

Q. Now, you testified, Congressman, as I understand, did you not, that upon receipt of the letter of Feb-[1132]ruary 3, 1961 the letter which first transmitted to you the Cassell loan papers, that you began working on the Cassell loan which involved some $1,600,000, is that correct?—A. Originally it involved that but at the time it was referred to me, I think it was some $900,000 that was involved.

Q. As a matter of fact, that letter of February 3, 1961 enclosed to you proposed loan agreement in the amount of $20,000?—A. Yes, I testified on direct examination. That dealt with the H. B. Humphreys who had a mechanic's lien on the entire project, and they wanted to lift the lien. It was at that time that it came to my knowledge about the other mortgages.

Q. Was it at the time you received that letter, or at some later time?—A. Well, it was during the time I was working on the mechanic's lien.

Q. And I think you testified, did you not, that it was during this time that you had occasion to see the form of the Cassell mortgage, the printed form of the mortgage?—A. Yes.

Q. As a matter of fact, Congressman, you knew so little about these Cassell mortgages that when you testified before the Montgomery County Grand Jury, you had no idea how many there were, nor how many had to be corrected, is that not so?—A. I do not know. If you will let me know what the testimony is.

Q. Let me refresh your recollection.

From page 12 of the Montgomery County Grand Jury testimony:

> Q. After August 1960, when again did you have any dealings from legal standpoint with Mr. Robinson and particularly Mr. Edlin?—A. They continued with Mr. Robinson. He brought in a very controversial loan dealing with A. I. Cassell Land Company, and under date of February 3, 1961 he addressed a communication and it is rather long, but it says "Enclosed copy [1133] of loan agreements on A. I. Cassell Land Corporation, together with copies of mortgages." I think it involved some three or four hundred mortgages. No more than that. Probably six hundred mortgages and he says, "I would appreciate your opinion on these documents at your earliest possible convenience." The amount involved was some $1,600,000. I made an examination, found that approximately one half of the mortgages were defective, involving some $700,000.

Now, is that your testimony before the Montgomery County Grand Jury?—A. Yes.

Q. And, as a matter of fact, Congressman, there were some 311 mortgages, were there not?—A. To be exact, I think it was 305, as I understand, 311 but 305 were what ultimately became involved.

Q. And there were 305 printed mortgages which were defective, is that correct?—A. Yes.

Q. And six were correct, of the total 311?—A. I do not recall that now.

Q. Now, do I understand from your testimony, Congressman, that your review of the Cassell mortgages was a portion of the work which you did as part of your $800-a-month retainer during the months of January through April of 1961?—A. That is correct.

Q. Is it not a fact that at the time you were performing this so-called review of the Cassell mortgages, you could not even state whether Mr. Robinson was representing the lending institution which was First Colony, or the borrower, Mr. Cassell?—A. Well, I do not think I call now because he was trying to clear for both parties.

Q. You did not know whether Mr. Robinson was representing Mr. Cassell or First Colony?—A. That is true.

Q. And you did not know, when you checked the mortgages, whether you were looking at them to protect the [1134] lending institution or to protect the borrower, is that correct?—A. I presume for both.

Q. You were acting on both sides of the transaction?—A. I presume both benefited by the correction.

Q. All right. Who were you receiving the $800 a month from?—A. Mr. Robinson—it came from him.

Q. Who did you understand was reimbursing him?—A. I never knew because he had formerly told me that it depended on usually the loans, who participated in the loans and that was arranged, presumably by Mr. Robinson.

Q. Did he ever tell you he represented Mr. Cassell, Congressman?—A. Not to my knowledge.

Q. Did he ever tell you that Mr. Cassell was reimbursing him for any of these funds paid to you?—A. No, I did not ask him.

Q. You knew, as a matter of fact, that they were being reimbursed by the Savings and Loan Association, did you not?—A. I presume that is where he was getting his reimbursement.

Q. You knew, as a matter of fact, did you not, that Mr. Robinson was representing the First Colony Savings and Loan Association?—A. Yes.

Q. I also believe you testified in this connection, Congressman, that after you had discussed these Cassell mortgages with Mr. Harry Adelberg of Baltimore, the two of you agreed that one confirmatory mortgage would suffice to correct the absent affidavit.

Was that your testimony?—A. Which testimony is that?

Q. Your testimony before this jury.—A. It could have been. I do not recall.

Q. Well, do you want me to refresh your recollection?—A. I would say it is.

Q. Is your testimony now any different from what I just [1135] indicated?—A. No. I say, as to the Cassell matter, ultimately the mortgages were brought to Baltimore to review, to be reviewed and there was a confirmatory mortgage.

Mr. Robinson was rather insistent that it be a simple amendment. At first there, we thought we were going to have to rewrite all the mortgages but ultimately there was a confirmatory mortgage.

Q. As a matter of fact, Congressman, did you not tell the

Montgomery County Grand Jury that you did, in fact, rewrite all of these mortgages?—A. Well, if I did, I inferred it was through a confirmatory mortgage.

Q. I am referring again to page 12 of your Montgomery County Grand Jury testimony, and I will pick up again where I left off a moment ago.

> I made an examination and found that approximately one half of the mortgages were defective involving some $700,000.
>
> Q. In what way were they defective?—A. They had not complied with the Maryland requirements so we rewrote those.

Was that your testimony before the Montgomery County Grand Jury?—A. Yes, it was and I say again that we did by confirmation mortgage.

Q. But, as a matter of fact, those mortgages were never rewritten individually, were they?—A. Not individually, no.

Q. So, you did not rewrite the mortgages, is that not so?—A. Not individually, but there was a rewrite by a confirmatory mortgage.

Q. Did you not, in your prepared statement of January 23, 1962, state that new indentures—a plural word—had to be prepared to correct this defect in these 305 mortgages?—A. As far as I know, if you say it is correct; I do not remember.

[1136] Q. I refer again to a sentence I previously read in the top paragraph on page 4, Congressman;

> It is interesting to note that a review of the Cassell Mortgages disclosed that some $900,000 in mortgages were defective under Maryland law, and new indentures had to be prepared to correct the mistakes.

Was that your prepared statement?—A. Yes, it was.

Q. Congressman, the confirmatory mortgage, the one confirmatory mortgage which was in fact prepared, was prepared, was it not, by Mr. Harry Adelberg?—A. I would say that it was prepared by Mr. Adelberg after, possibly, considerable conference.

Q. Isn't that what you previously testified here too that it was prepared by Mr. Adelberg?—A. I presume I did, I do not recall.

Q. Do you know when it was prepared by Mr. Adelberg?—A. I do not. It was in the spring of 1961.

Q. And do you know when it was executed?—A. I do not recall the date.

Q. And do you know when it was recorded?—A. I do not.

Q. As a matter of fact, Congressman, is it not true that it was prepared by Mr. Adelberg in May of 1961 and that when it was prepared, it was never fully executed and it was never recorded?—A. I do not know.

Q. Is it not also a fact, Congressman, that you never wrote an answering letter in answer to Mr. Robinson's letter to you of February 3, 1961?—A. Well, I think the answer, yes, that it was the work in the preparation of the confirmatory, but my work was actually a great degree on the H. B. Humphreys matter, in which I prepared certain papers on that.

[1137] Q. But you never, as I understand your answer, wrote him a letter in answer to that letter of February 3?—A. Whether a letter—I do not recall a letter.

Q. Now, you did testify on your direct examination at some length about the Humphreys' mechanic's lien and the problems which you say you encountered while dealing with that mechanic's lien. At that time you also pointed out, am I not correct, that you were working to protect the lending institution?—A. That is true and I must correct the last statement. I recall I did write to Mr. Robinson because he insisted on a letter respecting the mortgages, whether they were a prior first lien on the properties. That is dealing with the $20,000 loan.

Q. Where is your copy of that letter?—A. I do not have—as I stated on direct there I did not have my copy.

But he insisted on a letter.

Q. You never had a copy of that letter, did you, in January of 1962, when you gave copies of the other letters to the FBI?—A. As I say, I do not have the copy.

Q. All right, now, in connection with the Humphreys mechanic's lien, Congressman, did you not indicate that your work in connection with that was to protect the lending institution?—A. Primarily, yes.

Q. As a matter of fact, you testified that you were concerned that your work protect the lending institutions' advertising policy, did you not?—A. That is true.

Q. Now, Congressman, when you were supposed to be working on this Humphreys' mechanic's lien, is it not a fact that you never knew whether you were representing the lender, First Colony, or the borrower, Mr. Cassell?—A. I would say that

primarily the lender, but Mr. Cassell, naturally benefited. It was for his benefit, likewise.

Q. Didn't you tell the Federal Grand Jury that you even advised Mr. Robinson what would be a proper settlement of that mechanic's lien without ever knowing on [1138] whose behalf you were acting?—A. I advised Mr. Robinson, yes, on the settlement.

Q. And, did you not also say you had no idea as to whose behalf you were acting while you were supposed to be doing this work?—A. Possibly so.

* * * * *

The WITNESS. May I say that primarily it was the lending institution. I was not contacted by Mr. Cassell but certainly Mr. Cassell's interest was protected by the work done regarding the mechanic's lien.

* * * * *

Mr. MARION. I am referring to page 36 and page 37 of the testimony of Mr. Johnson before the Federal Grand Jury.

By Mr. MARION:

Q. Congressman, let me ask you if this refreshes your recollection, beginning at the top of page 36:

> Now, in addition to that, there was a difficulty that arose that a concern by the name of Humphreys, H. V. Humphreys & Son, filed a mechanics' lien against this development.
>
> Q. Who would worry about that, the lender or——.—A. Mr. Robinson asked me to check and let him know what the Maryland law was on mechanic's liens.
>
> Q. On whether or not it was valid?—A. Yes, and on how to dispose of the mechanics' lien.
>
> Q. In order to protect whom?—A. To protect all parties, I guess. Mr. Cassell and the lending institution.
>
> Q. The lending institution, the First Colony Savings and Loan?—A. Presumably all.
>
> Q. You still, throughout this entire transaction, though, you did not realize whether you were repre-[1139]senting the borrower or the lender?—A. No. Mr. Robinson is the one that gave me instructions. That was the understanding.
>
> Q. Did you have any idea or did you think it might have been the First Colony Savings and Loan or not?—

A. I did not even think about it because Mr. Robinson is the one that was paying me personally for it there.

And then at the bottom of page 37, beginning with line 13.

Now, on this Cassell, the complication arose on this mechanics' lien. It was $19,000 and had stopped the sale of all of the lots in the area. And there was quite a lot of detail work there as to lifting this mechanics' lien, as to posting a bond and to negotiate a settlement, which was finally negotiated to compromise.

Q. Did you participate in the negotiation?—A. Not in the negotiation but I advised him what I thought would be a proper settlement.

Q. You advised whom?—A. Mr. Robinson.

Q. Acting for whom?—A. Well, again I do not know.

Now, was that your testimony?—A. That is my testimony and still is.

Q. Now, throughout the course of this transaction, Congressman, you never had any contact with this Mr. Humphreys, did you?—A. Not personally, no.

Q. You never had any contact with his attorney, Mr. Perry Bowen of Calvert County?—A. That is true.

Q. You never had any contact with Mr. Cassell, did you?—A. I did not.

Q. You never had any contact with Mr. Cassell's Attorney, did you?—A. Which attorney?

[1140] Q. Do you know Mr. Cassell's attorney in this transaction?—A. No, I didn't. That is why I ask.

Q. As far as you know, you never had any contact with any attorney representing Mr. Cassell, did you?—A. I never knew he had one.

Q. Congressman, you testified here on direct examination that you arranged a meeting between Mr. Edlin and Congressman Boykin on January 6, 1961?—A. That is true.

Q. Is it not a fact that you told the grand jury—the Federal Grand Jury, in September of 1962, that this meeting with Mr. Edlin and Congressman Boykin had occurred in August of 1960?—A. If I did, it would not be correct because reviewing my files, I found a telegram which gave me the correct date as to the meeting.

Q. And didn't you also review your files before you made the statement to the Federal Grand Jury that it had been in August of 1960?—A. I did not.

Q. Let me refresh your recollection. Beginning on page 39 of the Federal Grand Jury transcript, page 39.—A. Yes.

Q. (Reading).

Q. What was the purpose of the discussions or meetings? What were you doing?—A. This brings in the development in Southern Maryland which is some 8,000 acres. Congressman Boykin had an interest in the mortgage on the property of $5,900,000, or approximately $6 million which had been given by Desser & Garfield. They were to develop this land in Southern Maryland. Mr. Desser had trouble in getting money to finance the development. He had spent, according to his estimates, several hundred thousands of dollars but (3903) he needed more money. So, Congressman Boykin thought that this firm of First Continental——

Q. First Continental Savings and Loan.—A. Yes—would be in a position to loan some money for this development.

[1141] Q. Did Congressman Boykin tell you this?—A. Yes, if I may say, because I reviewed my files on it that during 1960, Congressman Frank Boykin of Alabama—and, by the way, I hope that he will come to visit with you, because he is probably one of the most entertaining and delightful ones that we have in Congress. He is in the late 70's and is quite a character. He discussed with me the many new developments near Washington and told me he was personally interested in some 8,000 acres at Waldorf which is in Southern Maryland. That the land was under development by a firm known as Desser & Garfield, but the company was having financing difficulties.

Q. You are reading from a statement now. Is that a statement which you gave to the FBI?—A. No, this is something I just prepared because I enlarged on what I gave the FBI.

Q. This is another statement?—A. Yes. It appeared that Congressman Boykin had an interest in the $6 million mortgage on the large tract and was anxious to have Desser & Garfield continue with the development.

Congressman Boykin asked if I had any suggestions for financing, as it would be a great boon to Maryland.

I told Congressman Boykin that the only possible

source I knew for funds would be the same group who were under negotiation with the Assateague Island Bridge Company in my district to loan $1,700,000 for a bridge, sewer and water system.

Congressman Boykin suggested that I arrange a meeting with the parties and that was Mr. Robinson and Mr. Kenneth Edlin to discuss the matter.

Mr. Robinson was contacted and a meeting was arranged with Mr. Edlin attending.

Q. When was this, approximately?—A. This—I [1142] could not remember the exact date but it seems to me it was during early 1960. I could be off.

Q. 1960 was——.—A. Not early but probably some time.

Q. Was it after the special session of Congress which convened after the Democratic Convention in 1960, do you recall, or was it during that special session which took place during August of 1960?—A. I have an idea possibly it was around August of 1960.

Q. It could have been during that special session?—A. It could have been because I could not remember the time on that. Mr. Edlin advised that he acted as underwriter for several lending institutions including First Continental and that——

Was that your testimony before the grand jury?—A. That was mine. As I stated at the time I had not found the copy of the telegram which has been introduced into evidence which gives the date January, 1961, but what I stated here was my testimony not having the recollection of the telegram.

* * * * *

Q. Congressman, I show you defendant Johnson's exhibit 61, which you produced here at this trial, which purports to be a memorandum pertaining to the Desser negotiation. And I ask you to state where you got that memorandum which you now have in your hand?—A. I do not know whether Mr. Lykes Boykin or Mr. Robinson or who gave it to me, but it deals with the estimated, original estimated cost for the development of the Desser and Garfield.

Q. And is it not a fact that the notation in your penciled handwriting in the upper lefthand corner was put on that memorandum after this investigation had begun?—A. There was a notation and I have erased it.

Q. In other words, that was not there when you first received that document?—A. Presumably not but I had erased what was on here.

[1143] Q. When did you place the notation on there which you say you erased?—A. I would not have any idea.

Q. Was it within the last several months?—A. It could have been.

Q. You do not recall?—A. No.

Q. Possibly it was in the last several months?—A. It could have been. I say I do not know.

Q. As a matter of fact, you never gave a copy of that document to the FBI?—A. No.

Q. I show you defendant Johnson exhibit 62, which contains an original letter from Mr. Robinson to you dated February 6, 1961, a carbon copy of another letter, plus what you described, I believe, as the first draft of the Desser & Garfield loan agreement. Now, Congressman, First of all, my question to you is, isn't it a fact that you never wrote an answering letter to Mr. Robinson with respect to that letter of February 6, 1961?—A. I did not. There was no occasion to.

Q. And I believe you testified, did you not, that you did not prepare the draft of the loan agreement which is attached now to that letter?—A. Yes.

Q. Tell me—by referring to that draft, whose penciled notations appear on that draft?—A. There are several different writings and I could not identify whose it is. If I am not mistaken, some of it is the secretary from Mr. Robinson, the secretary that Mr. Robinson had from Florida.

Q. Is any of the writing your writing?—A. Very little.

Q. Let me direct your attention to the first page of the loan agreement and I ask you whose penciled notation this appears to be on the lefthand side in the margin on the first page?—A. That is mine.

Q. It says something about a plat to be filed with the agreement, does it not?—A. Yes.

[1144] Q. Below that in the same margin there is some additional penciled notations?—A. Which I cannot read. It is mine, but I cannot read it.

Q. In your handwriting?—A. Yes.

Q. Now, the penned notations on the first page are not in your handwriting, is that correct?—A. No, they are either—I think the Secretary who was working on it. Let me see.

Q. With the stapled addition on page 2 is that word in your handwriting, the word "Add?"—A. I am not sure it is. It could be.

Q. And on page 3 near the top, the words "not necessary." Is that in your handwriting?—A. Yes.

Q. And someone has crossed out some penned notations to the left of the words "not necessary." Is that correct?—A. Yes.

Q. Is not that in Mr. Lamar Caudle's handwriting?—A. It could be.

Q. And then there are some other penned notations which you say appear to be in the handwriting of Mr. Robinson's secretary?—A. I think that is his secretary.

Q. In the lower lefthand corner there is a notation "The Bridle Path" which is in your handwriting, is it not?—A. Yes.

Q. And then on page four there appear to be some penned notations which have been crossed out?—A. Yes.

Q. Is it not a fact that that is in Mr. Lamar Caudle's handwriting?—A. It is, as far as I can recall.

Q. On page six, there are some more penned handwriting which has been crossed out with a pencil. Is it not a fact that is in Mr. Caudle's handwriting?—A. It could be. I do not know his writing at all.

Q. And you have some penciled notations of your own, [1145] do you not, in the lower lefthand corner of page six?—A. Yes, which I cannot read.

Q. On page seven, there are several penciled notations which are in your handwriting, is that correct?—A. That is right.

Q. And on page eight there are penciled notations in the lefthand margin which are in your handwriting?—A. Yes.

Q. On page nine there is the word "written" which is in your handwriting, is that so?—A. Yes.

Q. Also some penned notations which are not in your handwriting?—A. Yes.

Q. On page 10 there is the penned notation which is not in your handwriting and the penciled notation which is in your handwriting?—A. Yes.

Q. On page 11, there is a penciled notation which is in your handwriting, is that correct?—A. Yes.

Q. On page 12 near the lower part of the lefthand margin there is a penciled notation which is in your handwriting?—A. Yes.

Q. And on the side, paragraph 36 there is a word, is that in your handwriting?—A. Yes.

Q. That penciled notation?—A. Yes.

Q. Aside from that one, from pages 13 to the end, none of the notations are in your handwriting?—A. No.

Q. And is it not also a fact that each and every one of the penciled notations which now appear on this document in your handwriting were placed on this exhibit after this investigation was begun?—A. I cannot state on that.

I would not know whether to refresh my recollection or made at the time.

Q. You do not recall whether or not they were put on at the time or whether you put them on prior to your testimony in this case?—A. No, I would not know.

[1146] Q. Now, Congressman, you never gave a copy of that document to the FBI, did you?—A. I do not have a list of what was given them.

Q. Can you state where you got that loan agreement which is now attached to that letter, before you produced it here at the trial?—A. No, I presume it is with the letter there of which he was sending me a copy.

Q. Didn't you get that from Mr. Robinson before this trial?—A. Not to my recollection.

Q. It is possible you could have?—A. It could have. I had some of his records to refresh my recollection.

Q. He turned over a number of documents to you, did he not?—A. Some documents, but his file was not as complete as mine.

Q. But you never gave a copy of that one to the FBI in January of 1962?—A. I would not know that.

Q. Now, you also testified on direct examination that the draft which appears, attached to the letter of February 6, 1961, which has been marked as Defendant Johnson exhibit 62, was the first rough draft of that loan agreement?—A. Yes.

Q. That was your testimony?—A. Yes.

Q. Then on your direct testimony, you identified a photostatic copy which has been identified and introduced as Defendant Johnson exhibit 63 and your testimony on direct examination was, was it not, that there were changes made in Defendant's exhibit 62 and those changes resulted in the rewrite of that loan agreement which turned out to be defendant's 63, was that your testimony?—A. If it was, it was not clear, because

exhibit 63 is really a copy of the exhibit 62. There was a final rewrite which I did not have the number of.

Q. So your testimony, when you testified under oath, that there were some changes made in 63 that appeared in 63 and that when 63 was a rewrite of 62, that testimony [1147] was not correct, was it?—A. I would not say it was incorrect. It seems to me there were some minor changes but for the most part, it is a clean reproduction of what we had from the original loan agreement.

Q. Congressman, is it not a fact that Defendant Exhibit 63 is actually a photostatic copy of defendant's 62 and that there are no changes or no differences between the two?—A. As I say, it is a copy but I thought there were some changes. I would have to go through, because we had attached on the original several attachments and I do not know whether they were all incorporated but from this we finally got a clean redraft.

Q. Is it not a fact that all of the penciled notations on that document which you hold in your hand now—Defendant exhibit 63—were made after this investigation had begun?—A. I think they were on this, yes.

This is for the purpose of explaining it.

Q. You are sure of that?—A. I am not sure but I know that I made notes to explain the loan agreement.

Q. On page three there is a notation in your handwriting, would you read that?

The COURT. Did you say 63?

Mr. MARION. Yes, of defendant exhibit 63. Would you read that penciled notation in your handwriting?

The WITNESS. "It must be clearly described, also plat."

By Mr. MARION:

Q. And that was put on there after the investigation had begun, was it not?—A. I think as far as I recall, they were put on.

Q. And the notation in your handwriting near one of the last paragraphs on the first page in the lefthand margin, would you read that penciled notation?—A. Yes, I see some of Mr. Robinson's writing on here, too.

[1148] Q. My question is, would you read the penciled notation which I referred to you just now?—A. Something as to resolution of Board, "Lefcourt. Would like to see Copy of note to be guaranteed."

Q. And on page two, the second notation from the bottom of the page, would you read that notation?—A. (Reading.)

> Spell out funds for promotional purposes. No funds disbursed where work is subject to approval by state or Federal agency. Comply with FHA requirements.

Q. Read the last notation at the bottom of that page.—A. (Reading.)

> Also require affidavit from Desser that work has been paid for.

* * * * *

Q. Congressman, I show you Defendant Johnson's exhibit 64 which purports to be a memorandum to Mr. Lykes Boykin, and ask you if you can identify the penciled notations which are on page 1 of that memorandum?—A. I can. Those were made for the purpose of explanation and this is a memorandum which I testified to, that Mr. Robinson was conferring with me, and wrote to Mr. Lykes Boykin regarding certain specific items dealing with proposed 2.3 million dollar loan.

Q. And when you say you placed the notations on there for purpose of explanation, you mean, that they were put there as an aid in your direct examination with reference to that document?—A. What few items are on the margin, there are only three or four on this page, to the best of my recollection, it was to clarify the explanation of the document which we prepared.

Q. And they were placed there, were they not, after the beginning of this investigation?—A. They could have been, because I say I made notations for the purpose of explaining these documents, but the document was prepared, together with Mr. Robinson, for Mr. Lykes Boykin.

[1149] The COURT. When you say "explained," do you mean in your testimony before the Grand Jury here?

The WITNESS. Yes.

By Mr. MARION:

Q. Now, second penciled notation in the margin on the left-hand side of the page, would you read that penciled notation, Congressman?—A. It says, "Check with something" but I cannot make out what the other is. I can't read it, to be honest with you.

Q. "Check with somebody," is that what it says?—A. It says "Check with" something.

Q. And the one below that, what does that say?—A. It is just a matter of approval.

Q. It says one word.—A. Yes, one word "Approval."

Q. The penciled notations on pages 2 and 3 are also in your handwriting, are they not?—A. Yes.

Q. Whose penned notation is that at the top of page 2, if you know?—A. I do not know.

Q. Whose penned notation is that which appears on page 1?—A. That is mine.

Q. Is it not a fact, Congressman, that you never gave a copy of this document to the FBI in January of 1962?—A. Mr. Marion, I would not know. I have many documents presumably which were not given to them, and letters too.

Q. Can you state where you got that document prior to the time you produced it here in Court?—A. No.

Q. Is it possible that is another one of the documents which you obtained from Mr. Robinson?—A. It could have been, but, as I say, I do not think so because Mr. Robinson's file was very depleted and I got no assistance from him.

Q. You are not prepared to state, as I understand it, [1150] that this did, in fact, come from your files?—A. As I say, I do not know, but I recall distinctly the preparation of the document.

Q. Now, I show you Defendant Johnson's exhibit 65 which purports to be a copy of a modification agreement, and I believe your testimony was, was it not, Congressman, that you contributed nothing to that particular document?—A. It could be. This is merely an extension to April 30 which is just for extending the Desser & Garfield mortgage for a short period, April 30, 1961.

Q. Congressman, did you, or did you not participate in the preparation of any of the language of that document?—A. I do not recall participating in this. It is a mere form.

Q. Did you not tell the jury on direct examination that you had contributed nothing to that document?—A. Show me that.

Q. That is defendant Johnson exhibit 65, is it not?—A. Yes.

Q. On page 3322 of the transcript, on direct examination, you were asked with respect to that document:

> Q. And who prepared that?—A. Mr. Robinson prepared a modification agreement which I approved where we extended, had an extension of the mortgage to April 10, 1961.

Q. And did you not contribute anything to the drafting of that?—A. I did not.

A. That is correct.

Q. But you did not recall today whether or not you had in fact?—A. I say, I did not recall making a contribution. To me it was a mere form. There were seven extensions of this mortgage, one followed more or less the other.

Q. And that document also has penciled notations on it, does it not, Congressman, in your handwriting?—A. That is true.

[1151] Q. Isn't it a fact that those notations have been placed there since the beginning of this investigation?—A. They could have because they are merely giving the date of the extension to March 1, 1961.

Q. Can you not state with certainty that they were in fact, placed there after the beginning of this investigation?—A. I can not but, as I say, I did make notations so that I could certainly simplify my testimony.

Q. This is a thermofax copy of a document which you delivered to the FBI, is it not?—A. Yes, it is.

Q. And does that thermofax not indicate that it is a thermofax copy of Defendant Johnson's exhibit 65 which you have in your lap?—A. That is true.

Q. And does that thermofax not indicate that at the time that thermofax was made by you and delivered to the FBI in January of 1962, that not a one of those penciled notations were on that document originally?—A. I see none and I told you twice that I had made, for the purpose of expedition to conserve time——

The COURT. You say that flatly now, you did make them for that purpose?

The WITNESS. Yes, sir.

The COURT. You have been saying "could be." As long as you do not say "Yes," or "No" and answer so many questions "could be," Mr. Marion is entitled to pursue it further until we get it clear.

The WITNESS. On this particular one, yes.

* * * * *

Mr. MARION. The Government will offer the thermofax copy of the agreement as government exhibit 176.

The CLERK. Government exhibit 176 marked in evidence.

[Government exhibit 176 marked in evidence.]

[1152] Mr. Marion. This is a copy of defendant Johnson exhibit 65.

By Mr. MARION:

Q. I show you defendant Johnson exhibit 66 which you stated, I believe, on direct examination was a copy of an agenda which you merely found in your file.—A. Yes.

Q. And the penciled notations on that document are in your handwriting, are they not?—A. They are.

Q. Were they not placed on that document after the beginning of this investigation?—A. They were, what few there are for the purpose of explanation.

Q. And I show you defendant Johnson Exhibit 67 which is the loan agreement. I believe you testified, did you not, that that is a copy of the final draft of the loan agreement of which Defendant's exhibit 62 and 63 were preliminary drafts?—A. That is correct.

Q. And you testified, did you not, that you had participated in the preparation of that loan agreement?—A. I did.

Q. And that there had been many meetings in connection with the preparing and reworking of the drafts into that final loan agreement?—A. With all of the proposed loan agreements.

Q. That document which you now hold in your hand, defendant's exhibit 67 contains many penciled notations, does it not?—A. There are some pencil and some pen notations.

Q. Are the penciled notations which you see in your handwriting?—A. Yes.

Q. And you are looking now at page 1, is that correct?—A. That is true.

Q. And there are some penned notations also on page 1, is that correct?—A. Yes.

Q. Are they also in your handwriting?—A. Yes.

[1153] Q. On page 9, near the lower part of the lefthand margin there is a penciled notation which is in your handwriting, is there not?—A. That is true, and the other is Mr. Robinson's handwriting.

Q. The notations which appear above that are in Mr. Robinson's handwriting?—A. That is true.

Q. And there are some penciled notations on page ten in the lefthand margin?—A. Yes.

Q. Are they in your handwriting?—A. That is true, yes.

Q. And, is it not a fact that all of those penciled notations which are placed on that document in your handwriting were

placed on that document after this investigation had begun?—A. Mr. Marion, I cannot say as to all. I certainly know that some, if not a majority, were put on for the purpose of explaining the loan agreement to the jury.

Q. Which notations were placed on there at the time of the writing?—A. I would not know.

Q. If any. And, do you know which ones, if any, were placed on after the investigation?—A. No.

Q. I show you a thermofax copy of a document, the first page appearing to be unrelated to exhibit 67 which you have just had in your hand, and I ask you whether the balance of that is not a thermofax copy of the defendant Johnson's exhibit 67?—A. It is.

Q. And does that not indicate, Congressman, that all of the penciled notations in your handwriting were placed on that document—defendant exhibit 67—after that thermofax was given to the FBI in January of 1962? I am referring to the penciled notations in your handwriting.—A. Yes, I do not see any in mine.

Q. As a matter of fact, the thermofax does contain the penciled notations which are on that document in Mr. Robinson's handwriting?—A. Yes.

[1154] Q. So they were on the document prior to the time the thermofax was made?—A. Yes, they were on there.

Mr. MARION. I offer this thermofax as Government exhibit No.—.

Mr. ROBINSON. May I see it, please, sir?

The COURT. Well, what is the next government number?

The CLERK. That will be government 177.

The COURT. Let that be reserved for it. If there is no objection, it may be so marked and if there is objection, I will hear your objections.

Go ahead.

[Government Exhibit No. 177 was marked for identification.]

* * * * *

Q. Congressman, I again refer you to the letter of February 6, 1961, from Mr. Robinson to you which contains the language, "I felt that very possibly you might have some suggestion or particular provisions that you might feel should be a part of the agreement when it is placed in final form and would appreciate your comments at your earliest convenience."

Near the bottom of the next to the last paragraph. Reading from Defendant exhibit 62.

Is it not a fact, Congressman, that you suggested no particular provision to be placed in that loan agreement?—A. I think I made several suggestions and I am looking through my file. I see that I have got some clear copies of different papers like the modification agreement and I would like to look through and see if I see clean copies of the others.

* * * * *

Q. My question related to the language near the end of the large paragraph in that letter in which Mr. [1155] Robinson suggested that you might wish to insert some particular provision in the attached loan agreement. And my question was, is it not a fact that you did not suggest any particular provision to be placed in the loan agreement?—A. Yes, I did suggest—and in the memorandum to Mr. Lykes Boykin, I know one or two of my suggestions were followed.

Q. Did you not tell the Federal Grand Jury, Congressman, that you could not recall placing any particular provisions in it because there had just been general discussion?—A. I could have.

* * * * *

By Mr. MARION:

Q. Did you not testify as follows, on page 44 of the transcript before the Federal Grand Jury:

> Q. Get back to this letter of February the 6th, Congressman. The letter you received from Mr. Robinson which enclosed a draft of a loan agreement with Desser & Garfield. Did you suggest any particular provision which should be placed in there?—A. I do not recall now because there was just general discussion on it.
>
> Q. Did you answer the letter?—A. No, I did not because——
>
> Q. Did you write any written memorandum about it?—A. No written memorandum.
>
> Q. Or any letter with any legal conclusion or legal memorandum in it?—A. No, it was all in general discussion.

Was that your testimony before the grand jury, the Federal Grand Jury?—A. It was and if I could explain that, since then

I did confer with Mr. Robinson and he called to my attention specifically certain provisions and also in my testimony before the grand jury, I spoke how these memorandums were prepared. How there [1156] would be general discussions. That is the agreements and one never knew what would be contributed to one or the other. It was a composite of several working together.

Q. Do I understand your answer to mean that your testimony as to these matters on direct examination was based on information which Mr. Robinson supplied to you prior to the trial?—A. Yes, and as I testified, I did not recall then. I do recall now specifically contributions made on certain provisions.

Q. Now, Congressman, you testified as I understand you here on the stand on direct examination that you actually participated in the negotiations which ultimately resulted in this proposed loan agreement, is that your testimony?—A. I participated, yes, there were general discussions.

Q. Is it not a fact that you did not participate in the negotiations but were merely advised of the result of the negotiations after the negotiations had been held?—A. No, that is not correct.

Q. Didn't you tell, or do you recall telling the Federal Grand Jury that you had been advised of the decision to make a loan and that that advice had been given to you by Mr. Lykes Boykin, Congressman Boykin and probably Edlin?—A. Yes. Now, what page are you referring to?

Q. I am referring to page 43 of the Federal Grand Jury. The question was:

> But then——
>
> A. Finally, after weeks of negotiation, it was agreed that First Continental Savings and Loan would advance to Desser and Garfield a development loan of $2,300,000 to be secured by First Mortgage on some one thousand acres, pledging the stock of Desser and Garfield, and having Lefcourt Realty Company, which was tied in with Desser and Garfield, sign as guarantor.
>
> Q. Was this decision made as a result of the ne-[1157] gotiations which you participated in in Mr. Lykes Boykin's office with Mr. Robinson and Mr. Edlin?—A. I don't know whether the decision was made but I was advised that First Continental would entertain the loan there of $2,300,000.

Q. Who advised you that?—A. Well, I think Mr. Lykes Boykin, Congressman Boykin—I think probably Edlin, himself, was there.

Was that your testimony before the Federal Grand Jury?

The COURT. Was there?

The WITNESS. Was there, yes. I do not see the question, though. There is no conflict.

* * * * *

By Mr. MARION:

Q. Congressman, you testified on direct examination as to work you say you did in connection with the preparing of the loan agreement regarding the Savarin Development Corporation, is that correct?—A. I told you that I had prepared a charter for the Savarin Corporation and minutes, by-laws and they were prepared by me.

Q. Did you not also testify that you participated in the preparation along with Mr. Robinson of the loan agreement and the other loan papers in connection with that loan?—A. I participated only to the degree that we ran into serious legal complications because the proposed loan dealt with two tracts and that the one tract could be completed or the lending institution could then decide not to go with the second, and then we had problems as to easements, as to the other rights of the usage of the property and it was really a very involved situation. The most complicated one I think I have ever worked on.

Q. Did you, Congressman, or did you not, prepare or participate with Mr. Robinson in the preparation of the [1158] loan papers which are contained in that defendant's 50-G which I showed you earlier this morning, that sheaf of papers regarding the Savarin Development Corporation?—A. Would you show it to me again? I do not recall.

Q. Defendant Johnson exhibit 50-G and it contains, does it not, copies of the various loan papers in connection with that loan?—A. Yes, I think that my testimony that Mr. Robinson prepared the loan agreement, he consulted with me, it was only on a consultation basis. There was a mortgage and other papers.

Q. All right, now, my question, Congressman is, did you or did you not assist Mr. Robinson in preparing those papers, those loan papers which comprise defendant's exhibit 50–G?—A. Well, I assisted from the standpoint of consultations, legal advice.

Q. Did you go over those papers before they were typed in final form?—A. Through discussion with Mr. Robinson.

Q. Did you ever look at them in December of 1960?—A. I don't know whether I noticed these or Mr. Robinson's rough draft. That I do not know.

Q. Are you testifying that you either saw these or you saw a rough draft of these?—A. I can say that Mr. Robinson consulted me time and again in respect to this very difficult proposed loan which we never made.

Q. Congressman, I am trying to find out whether you actually did any work on what turned out to be the paper, the loan papers, the loan agreement, and the other papers which are in that sheaf of papers?—A. I told you I did work in consultation with Mr. Robinson. He consulted me as to the provisions to be contained in the proposed loan agreements, the mortgage and other papers.

Q. Did Mr. Robinson ever show you the original or any draft of any loan agreement?—A. I do not recall his showing me the original but definitely we had many hours of discussion there on this particular project.

[1159] Q. Is it your testimony, then, Congressman, that you do not recall ever having seen any of those papers in December of 1960 which comprise defendant Johnson's exhibit 50–G?—A. Mr. Marion, I do not know what papers were shown me but Mr. Robinson spent considerable time with me discussing this particular proposed loan.

Q. Congressman Johnson, you testified on direct examination—and I am reading beginning with page 3225 of the transcript:

> Q. Now, Mr. Johnson, do you recall working with Mr. Robinson over a weekend dictating certain legal papers in connection with this transaction?—A. It was more than a weekend. We spent considerable time on this proposed loan. It involved very intricate legal problems. Mr. Robinson had his secretary from Florida to come to Washington and we worked in the preparation, dictating to the secretary that he brought to Washington. As I say, that involved over $2 million.

And then you go on to describe the loan, and on page 3226, you state in drawing the mortgages "We tried to take care of the situation but I was never satisfied legally that it was a

sound proposition."—A. Yes, that is a correct statement and I recall now, since you read it, that I did work with Mr. Robinson when he had his secretary to come from Florida.

Q. All right. Now, do you recall that you so testified on Monday, May 6 or do you recall what actually took place in December of 1960?—A. I recall both.

Q. Which is the correct version of whether or not you participated in the preparation of those papers?—A. That I participated, what I testified to.

Q. You did participate in the preparation of that loan agreement, is that your testimony?—A. Yes.

Q. And you also testified that you had participated [1160] with Mr. Robinson in reviewing the first draft of the Desser and Garfield loan agreement and that you had participated with him in the redraft of that loan agreement, and that you had worked with Mr. Robinson in the preparation of what turned out to be the final draft of the Desser & Garfield loan agreement, did you not?—A. That is true.

Q. And, it is not a fact, Congressman, that when you appeared before the Federal Grand Jury in September of 1962, you denied any preparation of any participation in the preparation of any loan agreement on the part of First Colony and First Continental?

Mr. DOUB. What page?

The COURT. What page, Mr. Marion?

Mr. MARION. Page 147, Your Honor.

By Mr. MARION:

Q. On page 147, "I did not prepare any loan agreement on the part of First Continental or First Colony for any loan."

And further on page 148:

> I worked in conjunction with the other attorneys but not in any loan agreements.

Was that your testimony before the Federal Grand Jury?—A. Yes, that was my testimony.

Q. Was it true at the time you said that before the Federal Grand Jury?—A. Well, it was true to this degree that my contribution was more of a legal aspect of it. There was a standard form on the loan agreement which Mr. Robinson prepared.

* * * * *

Q. Congressman, you testified on direct examination, if I am not mistaken, that you had discussed and agreed upon a fee arrangement with Mr. Robinson and Mr. Edlin at a meeting in your office in Washington on [1161] May 2, 1961, is that correct?—A. That is true and Congressman Boykin was also present.

Q. He was present along with you and Mr. Robinson and Mr. Edlin, is that right?—A. That is true after I returned from Southern Maryland.

Q. And at that time, as I recall, your testimony, you said that you agreed to a fee of $25,000 with $10,000 to be paid as a down payment immediately. And the balance would be paid shortly thereafter?—A. That was my understanding.

Q. And you indicated that this was a result of a discussion which had taken place at that time with respect to the Commission, provided in the purchase money mortgage, the Ernest purchase mortgage of January, 1958?—A. That is true.

Q. Congressman, is it not true that at that time you were not aware of the commission which was provided in the Ernest Purchase Money Mortgage?—A. I was aware. I have been an attorney foreclosing mortgages for many years and I was fully aware——

Q. And why, then, did you have to call Mr. Carrico as you also testified on direct examination, much later in order for him to confirm this commission?—A. I wanted to make sure that my understanding was correct as to the percentage and I wanted Mr. Carrico to remember it.

Q. Isn't it a fact, Congressman, that you never said anything in your FBI statement to the FBI which related any fee to a discussion based upon the Ernest purchase money mortgage?—A. I do not recall making any statement including it.

Q. And is it not a fact that you never mentioned this fact to the Montgomery County Grand Jury?—A. Nothing more than $25,000. I think I always mentioned the $25,000.

Q. As a matter of fact, did you not tell the Montgomery County Grand Jury that you were to get $50,000 under [1162] the terms of the Desser & Garfield agreement?—A. I so testified because they wanted to know about the draft of the agreement, the loan agreement, 2.3 million dollars between Desser & Garfield and the lending institutions. I told them that in that draft there had been provision made for a $50,000 legal fee, also $75,000 for engineering and other items, but I told them

that that was never received because that was never executed.

Q. Is it not a fact, Congressman, that the first time you ever mentioned a commission, a 6 per cent commission based upon the terms of the Ernest purchase money mortgage was in your letter of September 27, 1962, to Mr. Tydings, two days after you had appeared before the Federal Grand Jury?—A. I do not recall mentioning it before but I never considered it as a commission entirely because tied in with it was other work to be done for Charles County and Leisure City, so it was not exactly a commission fee.

Q. I show you what purports to be a letter signed by you, directed to Mr. Tydings, dated September 27?—A. Yes, sir.

Q. And direct your attention to the second paragraph of that letter and ask if that was not the first time that those facts in that paragraph were called to the attention of either the State or the Federal authorities?—A. The facts as to the mortgage?

Q. The facts as to the fees and commissions provided for in that mortgage?—A. I think it is the only time I mentioned about the $300,000 that would be a fee in the normal cases.

Q. I am referring to an exhibit which was previously marked "Hearing Exhibit No. 1."

* * * * *

Q. Congressman, you testified on direct examination, did you not, that this total proposed fee of $25,000 was to include the clearing-up of title, not only to Charles [1163] County, but to Leisure City, the tract in Virginia?—A. That is true.

Q. And, as I understand your testimony, that was a part of the discussion which you had with Mr. Edlin and Mr. Robinson at which Mr. Boykin was present on May 2, 1961?—A. That is true.

Q. Congressman, is it not a fact that you wrote Mr. Ashby in Virginia on June 1, 1961, and advised him that Hollis Rhinehart, another attorney, was authorized to direct the legal work in connection with the clearing of title to the Leisure City tract?—A. [Pause.]

Q. I show you government exhibit 156 and ask you if you did not so advise Mr. Ashby on June 1, 1961?—A. I did, and as the evidence has shown, Mr. Rhinehart did not pursue the work. I did all the supervision of the title. But Mr. Rhinehart was to assist in the legal work.

Q. Would you read the jury what your letter says about Mr. Rinehart's position.—A. It says:

> My apologies for the delay in answering your letter of May 18, 1961. Yesterday, I talked with Mr. Hollis Rinehart who is to be in touch with you within the next few days. Mr. Rinehart is authorized to direct the legal work to be done in this matter.
>
> I may add that the composite plat embodying all of the land in question is most urgent and I do hope that same may be made available at the earliest possible date.
>
> With kind personal regards, I am,
>
> Sincerely yours,
>
> THOMAS F. JOHNSON.

By Mr. MARION:

Q. Congressman, were you not further questioned before the Federal Grand Jury about each of the checks beginning with the check on May 2, 1961 through the check [1164] on September 12, 1961, before the Federal Grand Jury?—A. I was.

Q. And your testimony on direct examination in this case, as I understood, was that each of those checks was in part payment of this total agreed fee of $25,000.—A. Would you show me what page you refer to?

Q. That was your testimony, was it not?—A. I say, I would like to see what you refer to.

Q. I am referring now to what you——

* * * * *

By Mr. MARION:

Q. Is that your testimony now, Congressman?—A. As I said, as far as I could recall, but I do not know—I do not recall the testimony you refer to.

Q. Let me ask you then, was each one of those checks delivered to you as part payment on the total agreed fee of $25,000?—A. Now, which checks do you speak of?

Q. The check of May 2, 1961 in the amount of $3,500, a check dated May 25, 1961 in the amount of $2,500?—A. They are all separate checks.

Q. And all subsequent checks to and including a check for $1,500 dated September 12, 1961?—A. And including the $3,000 in Travelers checks.

Q. Is it your testimony now then that each of those was given to you as a part payment on the total agreed fee of $25,000?—A. It is.

Q. And when you were asked about each of those checks when you testified before the Federal Grand Jury, is it not a fact that you never mentioned once that any of those checks was in part payment of any agreed fee between you and Mr. Edlin and Mr. Robinson?—A. I do not recall. I said they were in reference to Charles County and Leisure City if my recollection is correct.

[1165] Q. And, is it not a fact that you never mentioned that they were part payment of an agreed total fee?—A. I cannot say because I mentioned the $25,000. I mentioned the checks in respect to Leisure City and Charles County.

* * * * *

By Mr. MARION:

Q. I show you government exhibit 12 which is a check from the First Continental Savings and Loan Association payable to the order of Johnson & Johnson, dated May 2, 1961. I ask you where you received that check?—A. I received that in Washington and that was the payment on the fee that you speak of, the $25,000.

Q. From whom did you receive that check?—A. Either Mr. Robinson or Mr. Edlin, I do not recall which one.

Q. And do you know whether you received it on that date or at some subsequent date?—A. No, but it is May 2, 1961.

Q. And did you send any letter or bill before you received that check?—A. No, this was the date on which they had agreed as to the fee. There was no occasion to send any bill.

Q. Do you recall whether or not that check came enclosed to you in any letter, or whether it was delivered to you, personally?—A. I do not recall.

Q. I show you government exhibit 13 which is a check of the First Continental Savings and Loan Association bearing date of May 25, 1961, payable to the order of Johnson & Johnson, and ask you where you were when you received that check?—A. To the best of my recollection that was delivered to me in Washington at my office.

Q. And by whom was it delivered to you?—A. I do not know that.

Q. And did you send any letter or bill requesting that payment?—A. No, because this is part of the fee that was agreed upon.

[1166] Q. How would it be determined just when you would receive the subsequent checks after that meeting?—A. It could not be determined.

I had to request, or make known that it was due.

Q. How did you make known that you wished to receive the check dated May 25, 1962, and to whom did you speak if you spoke to anyone?—A. Well, during the time certainly I was in touch with Mr. Robinson and no doubt I mentioned it to him.

Q. Would this be just a conversation between the two of you?—A. Well, it would be a conversation, yes.

Q. Let me show you government exhibit 14 which is a check of First Continental Savings and Loan Association in the amount of $4,000 payable to the Order of Johnson & Johnson, and I ask you where you received that check?—A. In Washington and that was in payment of the two previous checks of the dates you referred to from First Colony which aggregated $4,000.

Q. When had you returned to First Colony the two checks prior to that date aggregating $4,000?—A. I would not know when I returned those.

Q. To whom did you return them?—A. I think I returned them to Mr. Edlin. I am not sure.

Q. And to whom did you make a request that a First Continental Check in the sum of $4,000 be issued to you in substitution for the two earlier First Colony checks?—A. To both Mr. Robinson and Mr. Edlin.

Q. Do you recall where that conversation took place?—A. In my office.

Q. In Washington?—A. Yes.

Q. Do you recall who it was actually delivered that check to you?—A. No, I would not know.

Q. You do not know whether it came by mail or by some individual?—A. No.

[1167] Q. I show you government Exhibit 15 which is a check of First Continental Savings and Loan Association dated June 28, 1961, in the sum of $3,250 payable to Order of Johnson & Johnson.—A. Yes.

Q. I ask you where you were when you received that check?—A. That was likewise received in Washington and a payment on the agreed fee.

Q. From whom did you receive it?—A. I could not state on that.

Q. Who had you spoken to about it prior to the receipt of that check?—A. It could have been Mr. Robinson or Mr. Edlin. I do not know.

Q. Do you know why that check is in the sum of $3,250, rather than a rounder figure?—A. I do not.

Q. Did you request that specific sum at that time?—A. Not to my knowledge.

Q. Do you recall with whom you spoke about that?—A. No, as I say, I do not remember because it was so unimportant at the time and I did not realize it would become important.

Q. I show you government exhibit 67 which is a check drawn on the account of W. L. Robinson, dated August 4, 1961, payable to Johnson & Johnson in the sum of $2,000, and ask you if you can state where you were when you received that check?—A. Yes, in Washington and this was a payment on account which I remember Mr. Robinson told me would be charged against the land companies.

Q. You received that directly from Mr. Robinson?—A. Mr. Robinson.

Q. Had you communicated with him prior to that time about the receipt of that check?—A. Oh, I am sure I had.

Q. Do you recall what type of communication that was?—A. No, because Mr. Robinson was also working on the [1168] land-company matters and I did have occasion to see him from time to time.

Q. And is it your recollection that he actually delivered that check to you in your office?—A. To the best of my recollection.

Q. I show you government exhibit No. 83, a check on the account of W. L. Robinson dated September 12, 1961, payable to Johnson & Johnson, attorneys, in the sum of $1,500. I ask you from whom you received that check?—A. Yes, that was from Mr. Robinson who delivered that to me.

Q. Personally?—A. As far as I recall. Advising me that it was from the escrow account of one of the land companies.

Q. And he delivered that to you, personally in your office in Washington, did he?—A. As best as I recall.

Q. And had you had a conversation with him prior to that time about the receipt of that check?—A. I possibly had.

Q. You do not recall?—A. No.

• • • • •

Q. Congressman, you introduced into evidence a check which you issued in the amount of $4,400 payable to the firm of Goolrick, Ashby and Whittaker, in Fredericksburg.—A. I did.

Q. You recall that check, and that check was dated December 28, 1961, was it not?—A. That is correct.

Q. And that was sent with a letter which was dated December 28, 1961?—A. That is correct.

Q. But that letter with which that check was enclosed was not mailed until being mailed from Baltimore on January 8, 1962, is that not also correct?—A. That is, and I think that I should explain that to the best of my recollection I returned from some two months' abroad about the 22nd, maybe the 23rd. I was in my Washington [1169] office. I had an accumulation of bills. If I recall correctly, I dictated the letter prior to the 28th and held it to make sure that my bank account was sufficient to take care of these accounts, and I verified that later by talking to the secretary. She seems to recall that took place.

Q. Who was the secretary?—A. Miss Fermoyle.

Q. And when did you dictate that letter to her?—A. I am inclined to think it was the 23rd or 24th of December 1961.

Q. When did she type that letter?—A. I presume on the 23rd or 24th. I do not know.

Q. Would you say that the letter was dictated and typed prior to the 28th?—A. That is my recollection.

Q. It was dated the 28th.—A. Yes, I had hoped to mail it on the 28th. I did not make any arrangements to cover the account because there were several other bills that had accumulated and I was late in mailing the letter.

Q. And for what purpose did you dictate a letter and have your secretary type it on the 23rd of December, but dated it the 28th of December?—A. Because I expected that I could mail the letter on the 28th, but I was not able to do so, but later I did mail and they received their money, the $4,400.

Q. Now, isn't it a fact, Congressman, that you did in fact mail that letter on the 8th of January before you had arranged a sufficient transfer of funds to cover that check on your Berlin account?—A. I can't say. I was under the impression I had sufficient funds.

Q. Didn't you transfer $3,500, which would make enough in your Berlin account to cover that check by a check drawn on the Sargent-at-Arms dated January 11th and deposited to your Berlin account on January 12th?—A. I did borrow money from the Sergeant-at-Arms, but I had an accumulation of checks, not only the check you speak of, but others. That is the reason that check was delayed. I did not want to mail it until there were sufficient funds. [1170] I thought I had more funds on hand at the time than actually my account showed.

Q. You say you talked to Miss Fermoyle about this letter?—A. Yes.

Q. She advised you, did she not, that she was not in your office in Washington on the 28th of December?—A. She told me that she was away. I think home, which I knew about. No one was in the office, I don't think, except Mr. Buarque during that time.

Q. She was in Connecticut, was she not?—A. She went home for the Christmas holidays.

Q. From Christmas until after the first of the year?—A. I think all did except Mr. Buarque. I think he was the only one who remained there.

Q. Now, was that letter of December 28th typed in your Washington office?—A. To the best of my recollection I had no knowledge of it until I saw it in my file.

Q. Why was it, Congressman, that you drew a check and sent it to Mr. Ashby in late December or early January?—A. I just finished telling you that I thought I would have funds by the 28th.

Q. I am sorry.—A. But I did not.

Q. I am sorry. Perhaps my question is unclear. Why did you take it upon yourself to issue that check to Mr. Ashby at that time?—A. Because I had felt personally responsible for the check.

Q. Did you not testify on direct examination that when you arranged the final settlement of your account with Mr. Edlin some time shortly prior to October 23, 1961, that it was agreed that you would receive $3,000 net to you, and that they would take care of paying other attorneys as well as certain other bills?—A. That is correct, and I thought that was the case, but I found out that it was not true, and the account was still open.

I had given my word to [1171] pay the account, I was obligated for it, and I felt an obligation to do so.

Q. Now, is it my understanding of your testimony that as of October 23, 1961, you felt you had no obligation on that bill?—A. No, I didn't say that at all. I always had an obligation, but I thought the account was to be paid.

Q. By whom?—A. By Charles County or Leisure City.

Q. And had you not sent prior bills which had been addressed to you to Mr. Robinson or to Mr. Edlin so that they could be paid from that account?—A. I could. I don't recall.

* * * * *

Q. I show you Government's Exhibit 157 and ask you if the original of that letter addressed to you by Mr. Ashby on July 5, 1961, was sent to you?—A. Yes, I received the original.

Q. And that letter had a bill attached, did it not or enclosed?—A. Yes, it did.

Q. And is it not a fact that you turned that letter and that bill over to Mr. Edlin or to Mr. Robinson?—A. As I say, I do not know, but I certainly was in hopes that they would pay, the land company would pay the bill.

Q. I show you Government's Exhibit 160, and direct your attention to the second paragraph. Doesn't that letter indicate that you were intending for the bill to be paid by the clients, not by yourself?—A. Yes, this confirms what I just told you, that I wanted to know whether the fee or the obligation to the attorneys in Virginia remained unpaid or not.

Q. I show you government exhibit 163 which is a carbon copy of Mr. Ingram's letter to you of October 12. And that is a copy of his answer to your letter of October 10, 1961, is it not?—A. In which he states that the fee had not been paid.

[1172] Q. And did you not turn the original letter which you received, over to Mr. Edlin or to Mr. Robinson for payment?—A. I could. I do not know on that.

Q. You would not deny that you did?—A. No, I would not deny because I have no recollection.

Q. You would not deny that you turned the original letter of July 5 and the bill over?—A. No.

Q. And did you receive a carbon copy of Mr. Ashby's letter to First Continental of December 27, 1961 which is government exhibit 164?—A. Yes, I did receive that and also confirmed that they had not been paid.

The COURT. I do not understand that. Was Ashby's letter of the 27th of December, 1961, asking First Continental for the money, is that correct?

Mr. MARION. Yes.

* * * * *

Q. Now, Congressman, you have testified both on direct and on cross examination that the $4,000 check from First Continental which I showed you this morning, the $4,000 check dated June 7, 1961 was a substitution for two First Colony checks?—A. That is true, one on May 2, 1961 and one on May 22, 1961.

Q. And you testified, did you not, that this was a part of the initial down payment of $10,000 on the total fee of $25,000?—A. That is correct.

Q. Did you testify as follows before the Montgomery County Grand Jury, referring to page 38 of the transcript?—A. Just a minute. Let me get mine. What page is that?

Q. Page 38.—A. Yes.

Q. "The First Continental on June 7, 1961—Johnson & Johnson, $4,000. I would like to state there that that was to take care of Goolrick, Ashby and Whitaker. Instead of $4,000 it was $4,400 that I paid from the account on that check."

[1173] Is that correct? Did you so testify?—A. That is correct.

Q. Was that correct?—A. Yes, that is correct. If I may explain.

Q. All right.—A. May 18, I had received a very long communication from Mr. Ashby in which he stated that the minimum schedule of fees would be $4,400 for the work done in Virginia. He was anxious to go forward and wanted me to confirm fees which meant that I would be responsible for the fee. I did not feel disposed to do so until I had received what was agreed, the $10,000 coming to me.

I felt that I would not run a risk of having to pay out this sum of money. When I was paid the money on June 7, I then arranged a meeting on June 9 with Mr. Ashby, and he confirmed the arrangements; he stated that—in a letter on June 10 to Mr. Ingram, Congressman Johnson confirmed the arrangements for us to proceed with the abstract of title.

Q. And you say you arranged that meeting with Mr. Ashby after you received——.—A. The $4,000.

Q. And, as a matter of fact, Congressman, did you not telephone Mr. Ashby one time in the month of June and that was June 2, 1961?—A. I may have telephoned but I was with Mr. Ashby in Fredericksburg on June 9, 1961, at which time I then confirmed verbally the work to be done outlining what was required. I went into quite detail because we were together several hours.

Q. You said, as I understand it, you set that June 9th meeting up with Mr. Ashby after June 7, 1961?—A. That is right.

Q. My question to you was, was not the only time you telephoned Mr. Ashby from Washington to Fredericksburg in the entire month of June, on June 2, 1961?—A. I cannot say it was not true. It may be, yes.

Q. I show you Johnson's Exhibit 85 which is the telephone bills of your office for the month of June, and I notice [1174] that you had placed a check mark beside Mr. Ashby's name on the first page. Does that refresh your recollection that the call was made on June 2, 1961?—A. It reflects it but it does not reflect as to the only time that I had been in touch with Mr. Ashby. Congressman Boykin was in touch with him frequently. In fact, he was the one that made the arrangements for the meeting on the 9th, so other telephone calls were made.

Q. This was the only telephone call?—A. The only one I have, yes.

Q. As I understand your testimony, then, Congressman, the $4,000 check which you received was in fact for you to take care of Mr. Ashby and his company attorneys in Virginia?—A. No, I do not think that is correct. It was only to protect me and I was in hopes that the land companies would take care of it. They did not. But I felt personally responsible for the obligation.

The COURT. Well, now, I just do not understand this. I should like to get it clear. At the time you agreed with Mr. Ashby and his partners to undertake this work for $4,400, was it your understanding with Mr. Edlin and Mr. Robinson that one or more of those corporations was going to pay the bill for $4,400 or was it your understanding with Mr. Edlin and Mr. Robinson or the corporation that you were going to pay the $4,400 out of whatever fees you got?

The WITNESS. Your Honor, at the time of the agreement, this particular bill was not discussed. They stated it would be a

net amount to me of $25,000 which I never received but they were to pay all obligations.

The COURT. Then whatever—if the amount was not discussed, it was the understanding that they were to pay the bill of $4,400 or whatever the amount might be?

The WITNESS. Yes.

The COURT. That the fee to you was to be net?

[1175] The WITNESS. But when I obligated myself, I felt personally responsible to the attorneys in Virginia.

The COURT. Now, was the $4,000 paid to you—the question I want to ask, and I want this—was the $4,000 which you received on June 7, 1961, received by you as part of your fee or whether it was paid to you to take care of Mr. Ashby when the payment was made in June—whatever may have happened afterwards, when the payment was made in June, was it made to you to take care of Ashby, or was it made to you on account of your fee?

The WITNESS. It was paid as a part of the fee, but I did want protection since I was to see Mr. Ashby—that I would not find myself obligating $4,400 and not having the funds in hand.

The COURT. I understand that, but we have before the Grand Jury testimony, and here. That is, Montgomery County Grand Jury and I wanted to know which is correct.

You say it was paid to you as a fee, and not paid to you to take care of Ashby.

The WITNESS. No, not to take care of—Ashby.

By Mr. MARION:

Q. Did you testify as follows before the Federal Grand Jury:

> Question: Let me ask you this. On June 7, two weeks later you got a check for $4,000 from First Continental. What was that for, Congressman?—A. That was actually to take care of the attorneys down in Virginia.

Was that your testimony before the Federal Grand Jury?—A. It was and it was to protect me on my commitment is what I felt.

The COURT. You say to protect you, Congressman. You [1176] see no distinction between a payment to you on your fee and a payment to take care of them?

The WITNESS. Judge, I felt it was the obligation of the land companies but I did not want, when I was with Mr. Ashby on June 9, when I gave him my word to go forward and being responsible as I thought for the fee, I did want the protection.

* * * * *

Q. Congressman, in your prepared statement of January 23, 1962, did you state the following:

> The firm of Goolrick, Ashby and Whitaker, Attorneys, Fredericksburg, Virginia, were selected to do the necessary legal work. Many telephone calls and considerable conversation ensued with the Virginia law firm. Their bill for services amounted to $4,400. So, Mr. Robinson, during June forwarded to me two checks from an escrow account of First Continental Savings, one for $2,500 payable to Johnson and Johnson, Attorneys, and deposited to the Special Account on June 5, 1961, and the other for $4,000 payable to Johnson & Johnson and deposited to the special account on June 9, 1961. I later mailed to Goolrick, Ashby and Whitaker, Attorneys, check on the Special Account in the amount of $4,400.

A. Yes, I made that.

Q. Congressman, as a matter of fact, it was not you who retained Mr. Ashby or Mr. Willis or Mr. Ingram in Virginia, was it?—A. Not originally; Mr. Hollis Rinehart originally had contacted him. But Mr. Rinehart left and went to Florida and under date of June 10, 1961 Mr. Ashby confirmed to Mr. Ingram the following:

> Congressman Johnson confirmed the arrangements for us to proceed with the abstract of title to the properties

and went on to enumerate.

Q. But they were originally retained by Mr. Rinehart, were they not?—A. They were not, I would say re-[1177]tained but Mr. Rinehart had contacted them and then on May 18, 1961 Mr. Ashby in a letter to me asked me, he said, "It is my understanding that you will consider the foregoing, that is the $4,400, and confirm the fee arrangement and authorize me to have each interested attorney proceed."

So, Mr. Rinehart had but ultimately I was the one to confirm.

Q. But you, yourself, had retained Mr. Carrico in Charles

County, is that correct?—A. Yes, that is the Charles County, this is Leisure City we are talking about.

Q. I understand that.

When Mr. Carrico's bill came to you, you forwarded that to Mr. Robinson and it was paid by Charles County Land Company, was it not?—A. Yes.

Q. When Mr. Mudd's bill came to you, you forwarded that to Mr. Robinson and it was paid by Charles County Land Company, is that not correct?—A. Yes.

Q. Did you not also retain Mr. Andrews in Virginia?—A. I did but I do not think I have ever gotten a bill or he has sent a bill for his services.

Q. As a matter of fact, he has never been paid, has he, Congressman?—A. I have tried to find out but I am told he has not, and I requested and I wanted to get a bill.

Q. When did you last request or seek to find out from Mr. Andrews whether or not he had been paid?—A. It was sometime last year. I think with Congressman Downing, I had mentioned about it.

Q. Did you speak to Mr. Andrews about it?—A. No, I spoke to his associate, his partner.

Q. You never wrote Mr. Andrews?—A. No, I did not. I think Congressman Downing was a very small amount, and I never got the amount from him.

[1178] Q. Is it not a fact that Mr. Andrews sent you two bills and was never paid?—A. To my recollection I never received any bill from Mr. Andrews.

Q. If you had, you would have turned it over to Mr. Robinson?—A. I might have.

Q. You have two bills in your files?—A. No, I have none from Mr. Andrews.

Q. Now, you testified, I believe, Congressman, that in late October of 1961, you had a discussion as to a final settlement of your fee account with Mr. Robinson and Mr. Edlin in Washington?—A. Yes.

Q. That at this time you agreed to accept $3,000 in full payment of the balance of what you felt was due to you?—A. That is correct.

Q. Is that correct?—A. Yes.

Q. And is it not a fact that you actually at that time asked Mr. Robinson and Mr. Edlin for $5,000 but that after some

bartering or negotiating it was agreed that you would get $3,000?—A. I think maybe you are correct on that.

Q. You recall that, do you?—A. I recall something about a $5,000 settlement, but it was agreed on three..

Q. But you had asked for $5,000—do you recall that?—A. I might have.

Q. And you also testified, did you not, that you actually received these traveler's checks from Mr. Edlin at a table some several tables away from the table where the group who were there in the lounge of The Woodner Hotel had congregated?—A. I would not say physically from Mr. Edlin. I think Mr. Rains brought them over. He may have given them to Mr. Edlin, but they were from the First Continental Savings and Loan which at the time was under state supervision, audited by state auditors.

Q. Didn't you tell the agents of the Federal Bureau of Investigation on January 10, 1962, that you had negotiated [1179] the settlement of your account with Mr. Robinson, and that you went to The Woodner Hotel to meet Mr. Robinson, and that it was Mr. Robinson who actually gave you those traveler's checks?—A. Well, if I did, Mr. Edlin was certainly present but Mr. Robinson was there, too.

Q. Would you deny that that is what you told the agents on January 10?—A. No, maybe the agents asked me if Mr. Robinson was there. Mr. Robinson was there.

Q. And you also testified, did you not, that Mr. Edlin and Mr. Robinson came to your office during the late afternoon of—excuse me, October 23, 1961?—A. That is true because it was agreed they would send a check, and came in person late in the afternoon. I was greatly disturbed because I was leaving at 8 o'clock the next morning and I told them that I did not like their not being there earlier with the check so I could get traveler's checks. They assured me that First Continental Savings and Loan had that service.

Q. And is it not a fact that while they were in your office in the late afternoon of October 23, it was at that time you called Mr. Miller in the Department of Justice to tell him "Good-bye."—A. I do not recall. I think that I called Mr. Miller later but it could have been. I do not remember but I did talk to Mr. Miller to say "Good-bye."

Q. You did leave your office with Mr. Edlin and Mr. Robinson, did you not, to go to the Woodner?—A. I did.

Q. You called Mr. Miller—did you not, originally at 4:37 in the afternoon and again at 5:03 and talked with him at 5:07 on the afternoon of October 23?—A. I think the record shows that but I do not believe that Mr. Robinson and Mr. Edlin got to my office until after five o'clock.

Q. Is it your testimony that they were or were not in your office when——.—A. I would not know.

Q. You would not deny they were there?—A. No. Because I made a series of telephone calls to say "Good-bye" to many friends.

[1180] Q. Did you make all of those telephone calls while Mr. Edlin and Mr. Robinson were in your office?—A. I would say not.

Q. Now, you testified that at some time prior to October 23 you recall talking to Mr. Robinson on the telephone about settling the fee account. Was that not your testimony?—A. I think that is true, yes.

Q. Was there not a letter which was purportedly written on October 16 from you to Mr. Robinson in which you said something about traveler's checks?—A. There was. I found such a letter in my file.

Q. Do you have a copy of that letter with you?—A. I do not.

Q. Do you know where your copy of that letter is?—A. I think you have it.

Q. We have a thermofax. Do you have your office copy?—A. Maybe Mr. Doub has it. I do not know.

Q. Do you not know whether you have it or not?—A. No, I could go through but I do not know whether I have it.

Q. Did you not look for that particular letter when you were preparing for your testimony in this case?—A. I imagine I did.

Q. You referred to that letter, did you not, when you testified before the Federal Grand Jury?—A. I did.

Q. And you referred to it when you testified before the Montgomery County Grand Jury?—A. I did.

Q. And you gave a thermofax copy of that to the FBI, did you not, on January 19, 1962?—A. I did.

Q. Is it not a fact, Congressman, that that letter was written substantially after October 16, 1961?—A. Not to my knowledge, no.

Q. I show you a thermofax copy of a letter which purports to be a letter of October 16, 1961 from you to Mr. [1181] Rob-

inson given to the FBI and ask you if you can identify that as the thermofax which you gave to the FBI of your office copy of that letter?—A. Yes, this is the copy.

Q. Now, where was that letter dictated?—A. I presume in Washington. I do not——

Q. When was it dictated?—A. Well, according to the date it is October 16, 1961.

Q. Do you have any independent recollection of when that letter was dictated?—A. I have not, none whatever.

Q. Is it possible that letter was dictated after October 16, 1961?—A. I do not think so because I left on October 24.

Q. Is it possible it was dictated by you some time after you returned on December 23, 1961?—A. Not to my knowledge. I say, I do not know. I presume it was October 16.

Q. Are you saying that it is possible or not possible that it was dictated after December 23, 1961?—A. To me it seems to me it would be impossible afterwards. I would think on October 16.

Q. You dictated the letter, did you not, Congressman?—A. Yes, I dictated the letter.

Q. And it was to Mr. Robinson, is that correct?—A. That is correct.

Q. And you cannot state when that letter was actually dictated?—A. No more than what is on the date.

Q. Do you know where the letter was typed?—A. That was, I presume in Washington but I do not know.

Q. Do you know when it was typed?—A. As I say, the date is October 16. I presume it was on that date.

Q. Now, do you know by whom it was typed?—A. No, it is "D.D." or "BF" are the initials.

Q. Are they the same initials which are on your [1182] letter of December 28, to Mr. Ashby?—A. I would have to see it there. I do not know. Yes, the same ones.

Q. That was Miss Fermoyle, was it?—A. Yes, Brenda Fermoyle.

Q. Congressman, why was it necessary for you to write that letter of October 16 to Mr. Robinson in Washington, D.C., on October 16?—A. Well, this merely brings attention to my desire to close out my representation and to press upon him that

I was leaving on the 24th and some other matters that are in there.

* * * * *

Q. Now, Congressman, did not Mr. Robinson know prior to October 16, 1961, that you were leaving with the Foreign Affairs Committee and would be away for two months?—A. I can't say whether he was advised, but I had talked with him on the telephone some time before this.

Q. Hadn't you advised him of that fact when you discussed with him the final settlement of your fee account?—A. I don't think so, no.

Q. And didn't Mr. Robinson know at this time that Harry Adelberg had taken over the legal work covering Leisure City and Charles County Land Company?—A. He knew that Mr. Adelberg had done work on both, but not that he had taken over.

Q. Isn't it a fact that Mr. Adelberg never did any work for Leisure City Land Company?—A. I can't answer that. I am under the impression he had.

Q. And isn't it a fact that he had been handling Charles County Land Company's work since July or August of 1961?—A. Well, certainly since the last of August, because from that time on I became out of the picture.

Q. Now, you had testified, had you not, that you stopped working for all practical purposes in late August, because of certain undisclosed principals whose identity you could [1183] not learn?—A. I think I stated August or September. I think I also mentioned September.

Q. But that was the reason that you stopped for all practical purposes at that time?—A. One of the reasons.

Q. And did you testify as follows before the Montgomery County Grand Jury:

Mr. Johnson——

A. What page is that?

Q. Page 59. The question was from a Juror:

> Mr. Johnson, you have said that you thought a great deal of Mr. Edlin in the beginning. When this F.H.A. loan was turned down, weren't you more wary?
>
> The WITNESS. Well, I was more wary; but I did not get wary until possibly July or August.

Were you asked that question and did you give that answer before the Montgomery County Grand Jury?—A. Yes.

* * * * *

By Mr. MARION:

Q. Congressman, did you testify as follows on page 62 of the Montgomery County Grand Jury transcript:

> Well, the only thing that disturbed me, I could not get who was back of Charles County. I became disturbed that I could not find out who actually had stock interests, who were the officers of Charles County and Leisure City.
>
> And I got in touch with Mr. Adelberg and I told Mr. Adelberg that I felt that our firm should cease representing him.

Did you so testify?—A. I did. I claim there were undisclosed principals and I was anxious to know who were the principals in the two land companies.

[1184] Q. Now, this letter, bearing date of October 16, 1961, refers to—"I have given Mr. Adelberg two checks." Was this the first time you had ever advised Mr. Robinson that you had paid Mr. Adelberg by two checks dated July 5 and August 7?—A. To the best of my knowledge, it was. I could have, but I do not recall of any other information.

Q. You do not recall whether this letter was the vehicle by which you advised him of that fact?—A. I had advised him in the letter but whether I had told Mr. Robinson what one or more of the checks were for, I would not recall.

Q. Congressman, I show you another thermofax copy of what purports to be a letter from you to Mr. Robinson which bears date of May 22, 1961 and ask you if that is a thermofax copy of an office copy of a letter which was delivered by you to the FBI in January of 1962?—A. It is.

Q. And your office copy of that letter was not offered in evidence, was it?—A. No, because Mr. Doub did not feel that it was of sufficient importance, sir.

Q. Do you have your copy of that letter?—A. I do not know. I can look. I do not know.

Q. Have you seen it since you began your preparation for trial?—A. I do not recall but I knew of the letter and I think I have got a copy, thermo-fax copy of the same letter.

Q. Do you have your original office copy?—A. I say, I may have in my files.

Q. When was that letter dictated?—A. On May 22, 1961.

Q. Do you have any independent recollection of having dictated that letter on May 22, 1961?—A. No, but with that date, why, that was the date of that letter.

Q. Is it not a fact that that letter was dictated at the same time, the October 16th letter was dictated?—A. No, this was May 22, 1961.

[1185] Q. Do you deny they were typed at the same time?—A. I deny that. To the best of my recollection that is May 22, 1961.

* * * * *

The COURT. Is there any objection to this letter? Then let it be marked in evidence.

The CLERK. Government exhibit 180 marked in evidence.

[Government exhibit 180 marked in evidence.]

Mr. MARION. Members of the Jury, this is a thermofax copy of an unsigned letter bearing date of May 22, 1961, addressed to Mr. W. L. Robinson, Attorney at Law, Woodner Hotel, Washington, D.C.

DEAR BILL:

You asked that I advise the exact date that the certificate of incorporation of Leisure City was placed of record. I have in my files the certificate issued by the Clerk to the State Corporation Commission, Richmond, Virginia, showing that the recording was May 2, 1961.

If there is any further information desired, please advise. In view of the tremendous work done by our firm in respect to both Leisure City and Charles County Land Corporation, I hope a check can be mailed at an early date. These legal fees, I understand from you, will be paid from the escrow account and charged to the two land companies. If you prefer a written statement, the firm will send such to you or the bank. I think there should be an early meeting with Frank Boykin to secure the required information on the Brown tract.

Sincerely,

[S] Thomas F. Johnson.

[1186] By Mr. MARION:

Q. Congressman, did Mr. Robinson not know prior to May 22 that the Leisure City had been incorporated on May 2, 1961?—A. I do not think so. We had some complication be-

cause a charter was signed the 29th of April and it was not sent over to the tax authorities in Richmond until the second. We had quite a complication. He wanted a copy to know the date that it was finally chartered.

Q. Between May 2 and May 22 had you not been in touch with him about the matter?—A. Oh, I had been in touch. But I wanted to get officially the date of the charter.

Q. And when did you receive the certificate issued by the clerk to which you refer in this letter?—A. I did not receive it from the clerk. I think I got it from Mr. Andrews, if I am not mistaken.

Q. And when did you get it from Mr. Andrews?—A. I do not recall.

Q. The letter speaks of tremendous work done in respect to both Leisure City and Charles County Land Corporation and is it not a fact that as of the date on that letter, that Mr. Ashby had not even been authorized to proceed with his work in Virginia?—A. We had done work on that, trying to compile our own composite map. In fact, Mr. Robinson had a room filled with plats that he had gotten from some source, whether Congressman Boykin or who, but we had been working on that for some while.

Q. And where was that room?—A. At The Woodner Hotel.

Q. You had been working at The Woodner Hotel?—A. I had with him, yes.

Q. That dealt with Leisure City, did it?—A. It dealt with Leisure City.

Q. Is it not a fact, Congressman, that that letter bearing date of May 22, 1961 and the prior letter bearing date of October 16, 1961, are the only two letters which you [1187] ever turned over or have as yet produced which indicate that you wrote to Mr. Robinson at all in the year 1961?—A. I would have to review my files. I do not know of other letters. I do not know.

Q. And is it not also a fact that the date of both of those letters is a date on which you visited Mr. Miller in the Department of Justice?—A. Again I would have to check the visit list.

Q. Do you have the exhibit which you were referring to when you testified about the visits on direct examination?—A. Yes, if you will give me the exhibit, I will check.

Q. Did you not have a yellow pad which was marked for identification?—A. These do not give me the dates on the visit.

Q. That does not show that you visited Mr. Miller on May 22?—A. In my notes there is a May 22nd, yes.

Q. And there is an October 16, is there not?—A. Yes, on October 16.

* * * * *

The CLERK. Resume the stand please, Mr. Johnson.

Thereupon THOMAS JOHNSON, a witness, having been previously sworn, resumed his testimony further as follows:

CROSS EXAMINATION (resumed)

By Mr. MARION:

Q. Congressman, at the close of the day yesterday, I had asked you about this thermofax copy of a letter bearing the date of May 22, 1961.—A. Yes.

Q. And I had asked you questions prior to that about a letter of October 16, 1961. Have you found overnight [1188] your office copies of those two letters?—A. I have not. I have asked Mr. Doub. I thought you had the office copies.

Q. No, we do not have them and we would appreciate it if you could find them.—A. All right.

Q. Now that letter indicates, does it not, or states in the letter of May 22 which I have just handed you, that a check "can be mailed at an early date."

* * * * *

Q. And you received after May 22 Government exhibit 13 which is a check bearing date of May 25, did you not?—A. That is correct.

Q. But, is it not a fact, Congressman, that you testified yesterday on cross examination that there was no letter sent for the purpose of receiving that check of May 25?—A. Well, if I did, I was incorrect. Here is a letter of the 22nd.

Q. And you said that there had been only conversations with either Mr. Edlin or Mr. Robinson in order for you to receive that check of May 25, 1961, do you recall that testimony?—A. I do, yes.

Q. That testimony, then, was not correct yesterday?—A. Not according to the letter. It seems that I had called that to their attention by letter, too.

Q. Do you have any independent recollection, Congressman, either of writing that letter to them requesting that check, or of not writing that letter requesting the check?—A. No, I have no recollection. I found it in my file. I turned my file over to the FBI.

Q. You turned over photostatic copies or thermofax copies of portions of your files, is that right?—A. I think that is true, yes.

Q. You never turned over to the FBI the original office copy of either that letter or the letter of October 16?—A. That I do not know.

[1189] Q. Congressman, I show you Defendant Johnson's Exhibit No. 95 which is a handwritten note of Mr. Robinson bearing date of October 25, 1961. You testified on direct examination, did you not, that that handwritten letter was written after your return because you were very indignant?—A. That is correct, yes.

Q. And yet that letter was—or that photostatic copy thereof—turned over by you to the FBI in January of 1962 without any explanation as to the date on that particular letter, was it not?—A. I do not know of any explanation. I think that there was a subsequent letter turned over, too, which was of February.

Q. Before that February letter was received by you sometime in January of 1962, when you were first visited by the FBI, you turned over that handwritten letter or a copy of it, did you not, without any explanation as to the date of that letter?—A. I think it is true. I do not think I explained any of the letters.

Q. And is it not also a fact, Congressman, that you testified about that letter before the Montgomery County Grand Jury and although the letter was dated in October, you never explained to the Montgomery County Grand Jury that it was actually written some two months later?—A. Would you refer to the number, please?

Q. I think you will find that testimony at the top of page 40 of the Montgomery County Grand Jury transcript.—A. I did and on page 40, if you continue to read, I told the jury that later I did not feel satisfied with this statement. Then under February 28, 1962, I had a more detailed letter from him.

Q. And why did you tell the Montgomery County Grand Jury you were not satisfied with that handwritten letter?—A.

Well, on the appearance of it it was the only hand appearance that I had written, or I had received. As to the date I was not satisfied as to the date, knowing that it was dated back.

[1190] There were also words left out. It was not a very coherent letter. Therefore, I asked for a detailed statement which I later received, typed, from Mr. Robinson.

Q. Congressman, is it not a fact that you told the Montgomery County Grand Jury that your dissatisfaction with that letter was because it left out several words and because it was very poorly written but with no mention of the date of that letter or any dissatisfaction as to the date?—A. I did. That was some of the reasons for it. But I did get a subsequent letter.

Q. You never told the Montgomery County Grand Jury, did you, that you were upset or concerned about the date which appeared on that handwritten letter?—A. I do not recall saying that, no but I told them of a subsequent letter.

Q. Isn't it also a fact that you testified about that letter before the Federal Grand Jury in September of 1962, again without any explanation as to the date on that letter, or your concern over the date?—A. At what page is that?

Q. Pages 131 and 132, Federal Grand Jury transcript.—A. Yes, and I think the jury should know that on page 132 I stated that I did not like the letter, so when I got back I said, "I do not feel this is a proper explanation of the money. I want another explanation letter from you."

So, on February 28, 1962, Mr. Robinson gave me a detailed letter which I wanted for my tax records.

The COURT. Now, it is not quite clear in the record what you were reading from the Grand Jury testimony, and what you were testifying.

By Mr. MARION:

Q. My next question is, is it not a fact that you never told the Federal Grand Jury, even though you were questioned about the time of the receipt by you of that letter, you never told the Grand Jury that you were concerned with the date that appeared on that letter?—A. I did not. [1191] I merely said I did not like the letter which I considered full explanation.

Q. You requested the proper explanation?—A. Yes, that accounted for the other letter.

Q. Congressman, in early March of 1961, according to your testimony, you were in Miami with your wife and your children at the Eden Roc Hotel?—A. That is correct.

Q. And that was during the period, was it not, from March 3, 1961 to March 6, 1961?—A. That is correct.

Q. And did you not also testify that, while you were in Miami in March of 1961, you met with Mr. Robinson on one or two occasions at which time there was a discussion of a memorandum which related to a man by the name of James Bridges?—A. Yes.

Q. That this discussion involved, did it not, alleged threats or accusations which Mr. Bridges was said to have made concerning Mr. Edlin?—A. That is correct. According to the letter that Mr. Robinson wrote.

Q. And you went over that memorandum with Mr. Robinson while you were in Miami, is that correct?—A. That is correct and I had completely forgotten about it until I was refreshed in my memory about it.

Q. You were questioned specifically about that before the Federal Grand Jury, were you not?—A. I was and I had no recollection at that time. I had to be refreshed by the letter I received and talking with Mr. Robinson.

Q. Now, were you refreshed by the letter you received or were you refreshed when you saw the Government put that letter in evidence at this trial?—A. No, I was refreshed by Mr. Robinson and I think he told me of the letter, too.

Q. When did he tell you of these circumstances?—A. I cannot say when. It was some time prior to the trial when I was making my own investigation.

Q. Let me ask you whether you testified as follows before the Federal Grand Jury——A. What page?

[1192] Q. Regarding your Miami trip and I am reading from the bottom of page 52.

> Q. Was there a possibility that you may have met with Mr. Robinson and his father on another matter when you were in Florida or perhaps a drafting of a memorandum?—A. No.
>
> Q. No other matter like that?—A. No.
>
> Q. You did no other work on matters which directly or indirectly pertained to First Colony Savings and Loan or Mr. Edlin?—A. No. Actually, to be perfectly frank this was really a pleasure junket for me. I promised the

wife and children to take them to Florida. I went more, just one conference or two, just as I say. I would sit in there because there was really no business transacted.

Q. Aside from the two or three business meetings which you sat in on?—A. I believe it was only one.

Q. Aside from the one meeting which you sat in on involving Florida developments or Florida real estate, did you transact any other business while you were in Florida?—A. I do not recall any.

Q. Did you give any other legal advice?—A. Not to my——

Q. Or assist in any type of draftsmanship?—A. I do not recall any. I did do this. I told Mr. Robinson I wanted to see his offices and he did show me his offices there and I think that was the thing. And, in fact, I do not know whether I met his father or not. I may have, yes, in a general discussion we talked about everything generally but I don't recall any particular work there.

Is that your testimony before the Federal Grand Jury?—A. That is my testimony, yes.

Q. You also stated on direct examination, did you not, Congressman, that the possibility of your visiting the De-[1193] partment of Justice was never discussed with Mr. Robinson while you were in Miami?—A. That is correct.

Q. Is it possible you had forgotten about that, also?—A. It is not.

Q. Is it not a fact that Mr. Bridges, whom you did discuss while you were in Miami, was one of the defendants in the First Colony case?—A. He was, but it was not the nature of that discussion.

Q. And, is it not a fact that Mr. Edlin had already told you prior to the time you went to Florida in March of 1961, of Mr. Bridges' alleged motivation of the indictment in the First Colony case?—A. He could have.

Q. Is that not your testimony on direct examination?—A. My testimony, as I recall, that he brought that out several times. The first time I would not state when.

Q. Isn't it a fact you testified already on direct examination that he told you of that prior to your March trip to Miami?—A. In February, yes.

Q. Now, do you have any independent recollection of when he told you t[illegible]?—A. My recollection is it would be the last of February wh[illegible] had the report on Mr. Edlin.

Q. And you do recall now that you did discuss with Mr. Edlin in February, Mr. Bridges and the motivation which he is alleged to have had for this indictment?—A. That is correct.

Q. And, while you were in Florida in Miami in March of 1961 you asked for and you received a copy of the First Colony indictment, did you not?—A. It is true. Because prior to leaving when we were told as to Mr. Edlin's involvement, I asked to see the indictment. Mr. Robinson said it was in Florida. He gave me a copy which I did not read in Florida but brought it back with me.

Q. And after you left Florida, you received a letter from Mr. Robinson dated March 8, 1961, did you not, in which [1194] Mr. Robinson expected you to redraft a memorandum which had been given you in Miami?—A. On the Bridges matter.

Q. Yes, and this Bridges matter was one of the matters which was later incorporated in the bulky memorandum which was delivered to the Attorney General, was it not?—A. That I do not know.

Mr. MARION. May I have Government exhibit 86, please?

By Mr. MARION:

Q. I show you first of all the short memorandum, Government exhibit 86–B, the two page memorandum, and direct your attention to the last paragraph on the first page and ask if that refreshes your recollection that the Bridges matter was included in the memorandum delivered to the Attorney General?—A. Which paragraph?

Q. The last paragraph on the first page which carries over on to page 2?—A. No, it does not refresh my recollection because, in dealing with the Bridges matter, there was no discussion in Florida during the March meeting of any visits to the Attorney General.

Q. Well, does that refresh your recollection that the Bridges matter was included in the material which was delivered to the Attorney General?—A. No, I say it does not.

Q. Let me show you Government exhibit 86.

* * * * *

I call your attention to the first, or the page beginning with the introduction, Congressman, beginning at the paragraph

at the bottom of that page, continuing over on to the second page, and ask if that refreshes your recollection that the Bridges matter was included in the material which was given to the Attorney General?—A. Mr. Marion, this incorporates certain matters dealing with Bridges but it does not refresh my recollection as to any discussion of the matter in Florida.

* * * * *

[1195] Q. The question, Congressman, is whether or not that refreshes your recollection that the Bridges matter was included in the material which was later submitted to the Attorney General?—A. Yes, it does on that.

Q. And isn't it a fact that you told both the Attorney General and Mr. Miller about Mr. Bridges and the fact that he was alleged to have been a disgruntled employee?—A. I told both of them, the Attorney General and Mr. Miller.

Q. Congressman, do you have the original letter which was sent to you by Mr. Robinson dated March 8, 1961 copy of which was introduced in evidence by the Government?—A. I do not. Maybe Mr. Doub has it.

Q. Have you made a search of your file for that letter?

Mr. DOUB. We do not have that letter.

Mr. MARION. You don't have it?

By Mr. MARION:

Q. Do you know where the original of that letter is, Congressman?—A. I do not.

Q. Do you know what happened to that letter after you received it in March of 1961?—A. I do not. I know, Mr. Marion, that I received the letter but I do not know where the original is.

Q. Do you know you received certain enclosures with the letter?—A. That is true.

Q. And you do not have those enclosures, is that correct?—A. I do not.

Q. Do you know where those enclosures are?—A. I do not.

Q. Now, Congressman, as I understand your direct testimony, after you had returned from Florida in March of 1961, there was a meeting held at which you were present, Mr. Edlin, Mr. Robinson, Congressman Boykin and per-[1196]haps Mr. Caudle, at which you suggested to Mr. Robinson that, if there were to be a meeting with the Attorney General for a review of the First Colony case, that you would need a memorandum because the Attorney General might request such a memorandum; was that your testimony on direct examination?—A. It

was and I told him that I did not know enough about the case, that I would need some information.

Q. And this conversation at which those people were present took place, did it not, sometime between March 6, 1961 and March 20, 1961, when you received from Mr. Robinson a letter enclosing the first portions of the draft of that memorandum?—A. That is true but I do say there had been a previous meeting with Congressman Boykin and myself in which it had been suggested that the Attorney General should review on the merits, the case in question.

Q. Now, do you have an independent recollection at this time, Congressman, of this meeting about which I speak between March 6, 1961 and March 20, 1961?—A. In what respect?

Q. Do you remember, independently, of any memorandum or conversations with anyone else this particular meeting about which you have testified?—A. No independent recollection, more than the fact that there was a meeting.

Q. Do you have an independent recollection of the facts which you stated on direct examination?—A. Independent, yes.

Q. And you also testified on direct examination, did you not, that you received the original letters from Mr. Robinson which are in evidence as Government exhibits 93, 94 and 95, letters dated March 20, March 21 and March 22?—A. I did.

Q. And you received the original of each of those letters in Washington?—A. I did.

Q. And each of those letters enclosed, did it not, a portion of the draft of this memorandum, Government [1197] exhibit 86 which was subsequently submitted to the Attorney General?—A. That is true.

Q. Now, do you at this time have an independent recollection of receiving those letters and receiving these copies of this memorandum, those portions of this memorandum from Florida?—A. I did receive them. But nothing more than the fact that they were received.

Q. My question is, do you now have an independent recollection of having received those letters at the time they were in fact received in March of 1961?—A. As I say, I do acknowledge receipt of them. I do not have the originals.

Q. You do not have the original of any of the three letters?—A. No, I do not.

Q. Do you know where any of those three letters are?—A. I do not.

Q. Do you know what happened to any of the letters?—A. I do not. But the copies are in evidence which are the copies of the letters I received.

Q. And you also testified, did you not, Congressman, that Mr. Robinson had under preparation this memorandum at the time of your first visit at the Attorney General's office on March 25, 1961?

The COURT. What is the question?

Mr. MARION. My question is, is it not your testimony on direct examination that Mr. Robinson had under preparation at the time of your first visit to the Attorney General this memorandum, government exhibit 86, which was subsequently delivered by you to the Attorney General by special messenger under cover of a letter dated March 28, 1961?—A. That is true, but I did not have the memorandum on March 25.

Q. Well, what had happened to the memorandum between the time you received the portions of its with the [1198] letters dated March 20, 21 and 22, between those dates, and March 25 when you made your visit to the Attorney General?—A. My best recollection is that Mr. Robinson did not finally prepare a memorandum until after the 25th of March. He had portions for me. As to what happened to those portions, Mr. Robinson could testify. I do not know.

Q. Now, Congressman, I understand your testimony just a moment ago that you received in three letters, three portions of this draft or of this memorandum, Government exhibit 86, and you received those letters, a portion at a time in each of three letters dated March 20, 21 and March 22?—A. That is correct.

Q. So, you had the total memorandum in your possession, did you not, prior to March 25, 1961?—A. I would not say I had the total memorandum.

Q. What did you do with the portions of memorandum which were delivered to you under cover of those three letters?

* * * * *

By Mr. MARION:

Q. You did testify, did you not, Congressman, on direct examination that you suggested to Mr. Robinson certain changes that ought to be made in what now appears as Government

exhibit 86.—A. I did. That was on March 28 when Mr. Robinson had the memorandum in my office.

I glanced over it. There were some rather derogatory remarks in respect to the Justice Department. I told him I did not think that was proper, and those were the changes which I think were in about two or three places.

Q. As a result of your suggestion, then, to Mr. Robinson if I understand your testimony, the pages which are now identified as 86–C which appear to have been typed on a typewriter in your office, were inserted as replacement [1199] pages for other pages which had originally appeared?—A. That is true. Those contain the remarks pertaining to the Justice Department.

Q. And did you not also testify on direct examination that you suggested to Mr. Robinson that he prepare a brief outline of the case on other than legal points and that, as a result of that suggestion by you, Mr. Robinson prepared this two page memorandum which now appears as Government exhibit 86–B?—A. I did. The Attorney General requested a memorandum. Mr. Robinson submitted the very detailed memorandum. I looked at it. To be very frank with you, it was so long I did not read it. I told him I was sure the Attorney General would not read it. That he should have just one or two pages to explain what was the nature of the merits of the case.

Q. You read it sufficiently, did you not, to ascertain that there were remarks derogatory to the Justice Department in that memorandum?—A. I read sufficiently—I think it appeared on the first page—then Mr. Robinson stated I also have included such remarks on other pages. He then made the corrections on the other pages.

Q. Isn't it a fact that the first page which was corrected and changed was page 9 of the memorandum?—A. I do not recall.

Q. Would you glance at Government exhibit 86 and see whether that refreshes your recollection?—A. Yes, on page 9.

Q. Congressman, let me ask you if you testified as follows before the Federal Grand Jury, beginning on page 82 of the Federal Grand Jury Transcript:

> Q. Now, was there anything about the meeting with the Attorney General which made you more optimistic in any way or not?—A. No, and what happened there was that he suggested a memorandum and——

[1200] Q. He suggested that you prepare a memorandum?—A. Yes. He said to send it over by personal messenger to him.

Q. Did he outline to you what he wanted the memorandum to cover?—A. No, he did not.

Q. He left that up to you?—A. Yes.

Q. Did you prepare such a memorandum?—A. I did not.

Q. Was a memorandum prepared as a result of that visit?—A. It was. And, as I stated, Congressman Boykin and myself knew very little about Mr. Edlin. We had no knowledge. So I got in touch with Mr. Robinson and I told Mr. Robinson that we had been over—he knew we had been over; I said, "the Attorney General wants a memorandum, a full memorandum." He later met me in my office and gave me this tremendous report.

Q. Then you sent it over?—A. No, I did not. I took a glance at it. I told him it was entirely too long and in too much detail, that I certainly was not going to read it, and I was sure the Attorney General would not. And I believe with him was Mr. Caudle at the time.

Q. This was after your first meeting with the Attorney General?—A. Yes.

Now, is that your testimony?—A. Yes, it was. It was substantially what I told you today.

Q. And, reading from page 84, was this your testimony:

Q. How long after your first visit with the Attorney General was it that you delivered him the memorandum, approximately?—A. I don't know—probably a week or two, or something of that sort. I don't remember.

Was that your testimony at that point?—A. It was and I state again that at the time I appeared before the Grand [1201] Jury, we were in the closing days of the session of Congress. Day and night. Furthermore, it was a campaign, and I did not have a chance to review the letters, the correspondence, as fully as I have since then.

Q. And did you testify as follows, beginning on page 85, Congressman:

Q. Congressman Johnson, you looked over Grand Jury Exhibit No. 2—

which I think Congressman, was this document, was it not, before the Grand Jury?—A. Which page is this?

Q. Page 85?—A. Yes.

Q. [Reading.]

Congressman Johnson, you looked over Grand Jury exhibit No. 2 during the luncheon recess and I ask you, is that your letter and is that the memorandum which you had delivered to the Department of Justice?—A. That is my letter. This is in response to the request of the Attorney General. The contents, however, are not my contents because, as I stated previously, I did not know what to write. I knew nothing about Mr. Edlin's situation. I asked Mr. Robinson who was closer.

Q. You mean you did not actually prepare the memorandum, you merely delivered it?—A. Delivered it is all. That is right.

Q. Now, Congressman, you stated that this memorandum was not prepared prior to the first visit to the Attorney General, did you not?—A. That I do not know. To my knowledge, it was not because I never had seen it. I never had seen it until—

Q. It was possible then that it was prepared prior to that time?—A. Possibly but not to my knowledge.

Q. When was the first time you had seen any part of this memorandum?—A. I don't recall.

[1202] Q. Was it after the first time you saw the Attorney General or before?—A. To the best of my knowledge, it was after. As a matter of fact, I am not familiar with the memorandum.

Q. Is it your testimony that the Attorney General asked you to prepare a memorandum or to have such a memorandum prepared, or did you suggest that you had such a memorandum and wanted to give it to the Attorney General?—A. At the time we were at the Attorney General's office, to be very frank, I did not know too much about the whole thing. We explained the whole transactions to him.

Q. The whole transactions?—A. I mean as far as we knew about the land deal and so forth, and about Mr. Boykin. He suggested a memorandum. I do not and did not know fully what he intended to comply with that request. I suggested to Mr. Robinson to get some

sort of memorandum because very frankly I never had any particular interest in the meeting. I did not know how the Attorney General could fit into this picture and I was there more or less because Mr. Boykin asked me to go along and through courtesy, because I never had any hope that he would work out or could come up with any idea that could save the development.

Was that your testimony?—A. That is correct, yes.

Q. And did you further testify on page 86 as follows:

Q. You visited the Attorney General on March 25 and this letter is dated March 28. Don't you think that was a little short notice to prepare such a lengthy memorandum or not?—A. As I say, I did not prepare it. Presumably he gave me something he already had. I do not know. But I know nothing about that.

Now, was that your testimony?—A. That is true.

Q. And on page 143 of the Grand Jury transcript.

* * * * *

[1203] Q. Did you not testify further before the Grand Jury as follows, beginning on page 143:

Q. Directing your attention to Grand Jury Exhibit No. 2 which is the material which you delivered to the Attorney General, stapled to your letter which is a short memorandum which was put on top of the synopsis of the Colony indictment, I note that it appears to be typed in the same type; did you prepare that memorandum?—A. No, I did not. That was Mr. Adelson, I mean, Mr. Robinson.

Q. Did he dictate it in your office? I notice——. —A. I think he did. He came over with this memorandum and I told him I did not think that was what the Attorney General wanted, and I thought he wanted some additional information, so I said, "You go ahead, because I am not signing any memorandum."

Q. This big blue-backed memorandum is entitled "Synopsis of Colony Indictment." I notice that some of the type is different. For instance, it appears that the first part was not typed by the same typewriter that typed the second part. Do you have any explanation for that?—A. No, I don't know where it was typed. I want to tell you, I haven't read it, either.

Q. It is entitled "Synopsis of the Colony Indictment." Do you know basically what it contains?—A. I presume, yes, basically.

Q. What does it contain?—A. As to the pending cases against First Colony.

Q. Does it explain why it is a faulty indictment or why it was?—A. I think it does.

Q. The memorandum which is attached to your letter to the Attorney General. Let me read the memorandum to you and then ask you what you feel the objective of this memorandum was.

Parenthetical note: "(The memorandum was read to the witness.)"

[1204] Q. Did you read this memorandum which was affixed to your letter?—A. Yes.

Q. And you think it accurately sets forth the purpose of the deliverance of this synopsis of the Colony indictment?—A. Well, I don't think it hardly does.

Q. Then why would you attach it to it if it did not?—A. What happened was this: As I say, the Attorney General wanted a memorandum. I had forgotten. Presumably, he wanted something on the indictment. Robinson was requested and it was sent, whatever he prepared there, because to me I think the point was more to the question of the FHA approval than the publicity and so forth.

Q. What do you mean in connection with the FHA?—A. That is securing the FHA approval of First Continental and the loans.

Q. What would you say the true purpose of the visit to the Attorney General was?—A. May I summarize that by saying I felt when Congressman Boykin asked me to go over there, there was no purpose; that nothing could be accomplished at the meeting.

A. "That nothing would be accomplished," not "could be."

Q. I am sorry.

That nothing would be accomplished. At the meeting I felt the same thing and following the meeting as a result, I took no interest to prepare any memorandum myself because I just felt there was—it was a waste of time.

Q. What was your purpose in——A. I submit it because the Attorney General wanted a memorandum. He requested it.

Q. He requested a detailed memorandum of each [1205] and every paragraph of the indictment?—A. Presumably that was what it was and that is why it was sent.

Q. And this was prepared, you say, from the time you saw the Attorney General on March 25 until March 28, when you delivered this, was the time this memorandum was prepared?—A. I don't know when it was prepared. It was given to me and I sent it off.

Was that also your testimony before the Grand Jury?—A. That was my testimony.

Q. Congressman, now you testified on direct examination, as I understand, and you correct me if I am wrong, that your original purpose of going to see the Attorney General in March of 1961 was to enable him to review the First Colony case on its merits to determine whether the case had merit or not?—A. Basically, that is true.

Q. And is it not a fact that when you were first interviewed by the FBI on January 10, 1962, that you told the FBI agents who interviewed you that the First Colony mail fraud case was never discussed with the Attorney General at the time of your visit on March 25?—A. If I did, it was not correct.

Q. You would not deny that you told them?—A. No, but, as I say, if I did, it was not correct.

Q. Didn't you tell the Federal Grand Jury in substance, that the real purpose or the dominant purpose of your going to the Attorney General was to have him review the FHA's motivation in refusing to approve First Continental Savings and Loan Association as an approved lending istitution?

* * * * *

Q. Did you testify as follows on September 25, 1962 before the Federal Grand Jury, beginning on page 79:

Q. What would you say was the purpose of your [1206] going to see the Attorney General, the real purpose?—A. To look into the whole matter and investigate.

Q. Look into the whole matter of what?—A. First whether or not the reports that Justice had were correct reports on Edlin.

Q. On Edlin?—A. Yes. Whether or not he had—which we had a copy there of two previous convictions instead of one in connection with some savings and loans in Chicago. I believe the Corona, which was a bad report. How serious the present situation was, and whether or not these were matters that should prevent FHA from proceeding with the approval of the lending institution, and particularly, whether or not Mr. Edlin was connected with First Continental. May I say at this point, Mr. Edlin, of course, always made an issue that there was some pressure group preventing him and and had means of preventing him from this development there and we, frankly, asked and explained on that, whether or not there had been any outside interference.

Q. What was the outcome, or what did you expect or hope would result, or happen or occur as a result of your visit to the Attorney General's office?—A. Well, if I may say, he replied, if I can go on there, I will come on to what we expected.

And then there is a break on another matter, and continuing from the middle of page 80.

Q. All right, go ahead.—A. You asked me what I felt we——

Q. What you expected to accomplish.—A. We did have a tremendous development there under way which meant a great deal for Maryland and it was whether or not there was anything to the pending case, whether there was any pressure outside being brought to hold up the FHA and any other information that could be determined by these parties who [1207] were negotiating whether to call off the loan for development or not.

Q. What was the most optimistic hope as a result of your visit, of what would be done?—A. I don't know what was the most optimistic. To be perfectly honest with you, I did not think anything would be accomplished but when I was asked to go, I went along with Congressman Boykin and I did not think anything would be done.

Q. Let me go back a moment. It is my understanding that the dominant reason you went to see the Attorney General was because the FHA had been withholding their approval on a loan from First Continental Savings and Loan?—A. Approval of the lending institution.

Q. Yes, of First Continental Savings and Loan Association. That was the dominant purpose.—A. Yes, and general approval, too, of site location, but the lending institution approval was the principal thing.

Q. You hoped the Attorney General would look into the matter and, as a result of that, he would clear up the matter with the FHA so that First Continental would be approved as the lending institution and——A. I was hoping. Actually, as I say, I had no thought of anything being done. Congressman Boykin called me a senior Congressman, and I went over with him but I did go. If anything would have been hoped, it would be that there would be no report linking Edlin with First Continental. Because that was one of the objections, too, that he was a part of First Continental and Edlin kept telling us over and over again that he was not.

Q. And if that conclusion were reached by the Attorney General, then that, in turn, would release the First Continental to become an approved [1208] lender and therefore, permit the FHA financing?—A. Presumably.

Q. So that the development could go ahead?—A. Yes.

Now, was that your testimony before the Federal Grand Jury?—A. It was, but I do think that you are taking out of context the letter to the Attorney General on March 28. The memorandum states that over a period of months negotiations had been under way, dealing with the financing of the residential and commercial developments, and so on, by and through First Colony Savings and Loan Association, bringing it to the Attorney General's attention. Also, you failed to read page 77 in which the purpose is set forth, in which I explained to the grand jury that Congressman Boykin went into full detail as to what the development would mean in Southern Maryland, that the development there would mean some payment of $2 million in taxes by him to the Government; that he was personally interested in the transaction.

And I went on to say I was anxious to help Congressman Boykin; that I was assisting in the legal matters and I, too, felt it would be a wonderful thing for my state of Maryland.

Q. Keep reading, Congressman.

* * * * *

Q. Congressman, with respect to the visit which you made to Mr. Miller at which time you introduced Mr. Miller to Mr. Charles Meyer, Mr. Edlin's former probation officer, you testified as I understand that Mr. Meyer had been contacted first by Mr. Edlin from the telephone in Congressman Boykin's office some time shortly after a meeting which you and Congressman Boykin had with Mr. Miller on June 12, 1961, and that in the course of that telephone conversation Congressman Boykin also spoke to Mr. Meyer.—A. I so testified. Whether he spoke, I do not know; Congressman Boykin did hear certain conversation [1209] over the telephone because at the time that the call was made there was conversation between Mr. Edlin and Mr. Meyer. Congressman Boykin was asked to hear the conversation. What was said by Congressman Boykin, I do not recall.

Q. In other words, you know that he at least had his ear to the telephone, and was apparently listening, but you do not recall specifically anything he may have said?—A. I could not hear.

Q. Let me ask you if you testified then, as follows before the Federal Grand Jury, on September 25, 1962.

Mr. DOUB. What page is that?

Mr. MARION. Beginning on page 92.

> Q. What was the purpose of your visits to Mr. Miller?—A. Oh, on occasions it was on this. On one occasion there was a man from Chicago who is head of the Federal Parole Office.
>
> Q. Mr. Meyer?—A. I think his name is Meyer, who telephoned and stated that the had been in or that Mr. Edlin had been in touch with him. And——
>
> Q. Mr. Meyer told you that Mr. Edlin had been in touch with him?—A. Yes.
>
> Q. How did you meet Mr. Meyer?—A. He came to my office.
>
> Q. He did? Did you ever talk to him before then?—A. No.

Q. You never met him?—A. I never met him before.

Q. Who brought him to your office?—A. I don't know whether Mr. Edlin or Mr. Robinson, or whether he came in alone but he came to my office.

Q. And for what purpose did he come to your office?—A. He understood there had been a false report.

[1210] Q. Mr. Meyer understood.—A. Yes, that was his term there. He wanted an opportunity to talk to someone in Justice.

Q. So he asked you?—A. I don't know whether I called or Congressman Boykin called over to Mr. Miller. Mr. Miller said that he would like to see it. That he, himself, woud not be the proper one because he wanted to take down the transcript and for him to see someone else.

Q. What was Mr. Meyer's official capacity?—A. He represented himself to me as being in charge or one of the heads of the parole division.

Q. And that is a division of what branch of the Government?—A. The Department of Justice.

Q. Why would Mr. Meyer come to you and request that you make an appointment for him?—A. I don't know.

Were you at all suspicious?—A. Well, not suspicious at all but——

Q. Did you think it was unusual? Did he come in alone and unannounced, Congressman?—A. That I don't remember.

Q. Did Mr. Edlin advise you beforehand that he was coming?—A. I don't recall, offhand.

By Mr. MARION:

Q. Did you so testify before the Federal Grand Jury?—A. I did, yes.

Q. And, as a matter of fact, Congressman, it is true, is it not, that the day before Mr. Meyer came to Washington on June 15, on June 14th, you had called Mr. Miller and made an appointment to see Mr. Miller in connection with Mr. Meyer's visit the following day?—A. In answer to that, I notice his log shows a call by me but I have no recollection of calling the day before.

[1211] Q. It shows——A. I thought he was called the day Mr. Meyer was in the office.

Q. It shows a call was made to set up an appointment does it not, on June 14, the day before Mr. Meyer's visit?—A. As I say, his log shows that but my recollection is he was called the day of Mr. Meyer's visit. I could be in error.

Q. Do you have an independent recollection of when Mr. Miller was called to set up that appointment?—A. No, as I say, I thought he was called the day Mr. Meyer was in town.

Q. My question is, you say you thought it was the case. Do you have any independent recollection?—A. No, I have no independent recollection.

Q. You have testified on at least five occasions in the course of your direct examination that at the time you visited the Attorney General and during the time you visited Mr. Miller, that you advised them of your representation of First Colony Savings and Loan, of First Continental Savings and Loan, of Charles County Land Company, and of Leisure City Land Company. Is that correct?—A. That is correct.

Q. And, is it not a fact that you told the FBI agents who interviewed you on January 10, 1962, that you had never represented First Colony or First Continental as such but may have indirectly regarding Cassell and Kastner?—A. To make the correct statement, in my statement to the FBI, I stated I had never represented Mr. Edlin. Neither had I directly represented the loan associations. It was all through Mr. Robinson.

Q. And your prepared statement of January 23, 1961 says, does it not, Congressman, in the last paragraph on page 12-A, "At no time did I or my law firm represent Mr. J. Kenneth Edlin, nor directly either First Continental Savings or First Colony?"—A. That is true, Mr. Marion. I told you that my representation was through Mr. Robinson.

[1212] Q. And didn't you tell the Federal Grand Jury in substance that you felt you did not want to represent a savings and loan association?—A. That is publicly, yes.

Q. I didn't understand you.—A. Yes.

The COURT. He said "that is, publicly."

The WITNESS. Yes, publicly.

By Mr. MARION:

Q. Let me ask you if you testified as follows before the Federal Grand Jury?—A. What page is that?

Q. Beginning on page 47, and this relates back to the period of time in August or September, 1960, Congressman:

Q. Why did you want legal services paid for by Mr. Robinson personally rather than his clients?—A. Well, he had—he seemed to represent so many parties and I felt that it was up to him as any other associate that I would like—he was an attorney.

Q. But why didn't you want to be paid by the First Colony Savings and Loan Association when you reviewed a loan agreement for them? Why did you want to be paid by Mr. Robinson rather than the First Colony Savings and Loan or by Mr. Robinson rather than the First Continental Savings and Loan?—A. Well, I thought that would be proper because as an attorney, that was like any other attorney, that I would look to him.

Q. You thought he was more solvent, perhaps, and you could look to him better than those lending institutions?—A. Well, I didn't know too much about his company in Florida and so forth.

Q. What about the Maryland association?—A. The Maryland—I didn't know too much except the statement showed they were a good solid company.

Q. Did you know the first——A. And furthermore, [1213] too, that I did not feel that I wanted to represent a savings and loan association.

That was your testimony?—A. Yes, that was my testimony.

Q. Is that still true, Congressman?—A. That is true.

Q. And is it not a fact further, Congressman, in your prepared statement of January 23, 1962, in reference to the first meeting with the Attorney General, and I will read from page 11 of your prepared statement:

> At this meeting it was made clear to the Attorney General that Congressman Boykin and I were not there in the interest of any litigant.

Is that your testimony?—A. It was my testimony because we were not there paid by any individual or corporation and I read you my testimony before the Grand Jury which I think is on page 78.

Q. Yes. Well, let me ask you if you said this before the Federal Grand Jury, reading from page 78:

> I do want to make it clear that I told the Attorney General at that point that Congressman Boykin and I

wanted to make it clear that we were not there in the interest of any litigant.

Did you so testify?—A. Yes, and before, if you read before. I told him that I was helping in the legal matters; that I told the Attorney General.

Q. I will come back.—A. But, again, I state that I was not paid by any litigant.

Q. And on page 88, did you testify as follows:

> During the period of your visits were you still interested in a legal fee rather than a finder's fee for the success of this land transaction?—A. I don't know about the finder's fee because, as I say——
>
> Q. You said it was not?—A. In the beginning, I said nothing was ever decided on it.
>
> [1214] Q. But your legal fees were still hanging, contingent upon the success of the development, the consummation of the development; is that correct?—A. No, it was only as to possibly the amount. If it had been successful, probably a little more but——
>
> Q. How much more?—A. That I don't know. Because we had not discussed a final or even fees in detail.

A. You are not reading correctly on that. "No, I don't know because we had discussed these fees in details."

Q. That is not the way my copy reads.—A. Here is mine.

* * * * *

> Q. During the period of your visits were you still interested in a legal fee rather than a finder's fee for the success of this land transaction?—A. I don't know about the finder's fee, because, as I say——
>
> Q. You said it was not?—A. In the beginning I said nothing was ever decided upon.
>
> Q. But your legal fees were still hanging, contingent upon the success of the development, the consummation of the deal, is that correct?—A. No, it was only as to possibly the amount. If it had been successful, probably a little more, but——
>
> Q. How much more?—A. That I don't know, because we hadn't discussed a final or even fees in detail. I do feel that I should mention that at the very first meeting with Mr. Miller I told him that I wanted it distinctly understood that we were not there in the interest

of any litigant, did not want to interfere in any way with the conduct of his office.

Did you so testify?—A. I did, and I think I should mention that the fees referred to, we had the $25,000, which I had not been paid. At the time we had a New York [1215] group who were interested in taking over the development; that if that deal had gone through, I would have gotten my full $25,000.

As to Mr. Miller, again I state that I had no interest as a paid litigant or as a paid client with Mr. Miller at the time of the conference.

Q. And you had read in answer to one of my prior questions, Congressman, a moment ago, a portion which began on page 77, and you stopped with the line "for my State of Maryland." Did you not also testify, continuing at that point:

> Q. Did you tell the Attorney General whom you represented?—A. No, I did not go into detail, more than the fact that I was interested as counsel there.
>
> Q. As counsel for whom?—A. I did not go into detail, but that I was attorney, and that I was also interested in helping Congressman Boykin, and furthermore that I was interested in seeing the development there in Southern Maryland.

A. Yes, that is my statement.

Q. And is that the statement as to your testimony, is that correct today?—A. It is correct to the degree there that more was stated than what was stated in this before the grand jury.

Q. Was it correct that you did not tell the Attorney General whom you represented?—A. I told the Attorney General that I was representing through Mr. Robinson the lending institutions. That was First Continental and First Colony. Later I confirmed by letter of March 25th that First Colony was the lending institution.

Q. Is your statement in the grand jury testimony on page 77 that you did not tell the Attorney General whom you represented, is that true?—A. My statement was I didn't go into detail.

[1216] Q. Was this statement true which you told the grand jury?—A. It was true, yes, but I did not go into detail.

Q. And that you did not tell the Attorney General whom you represented?—A. I told him that I was interested as at-

torney for the lending institutions; that I wanted to help Maryland. It meant a lot to Maryland, and furthermore, that we had been told that there was merit to the request for the review.

Q. Now, Congressman, the proposed loan about which you have testified, which was being discussed at this time in approximately March of 1961, was a proposed loan from First Continental Savings and Loan Association to Desser & Garfield, is that not correct?—A. It is correct to the degree that there would also be other participation. As I testified, it was too large for one lending institution.

Q. And does not the loan agreement which you produced in evidence, Defendant's Exhibit 67, the final draft of that proposed loan agreement, indicate that the loan is to be made by First Continental Savings and Loan Association?—A. That is true, but again I state that in the letter to the Attorney General, First Colony was then substituted as the lending institution.

Q. Let me ask you if you testified as follows before the Federal Grand Jury, beginning on page 73: Question:

> There came a time in 1961 when you either alone or accompanied by Congressman Boykin or Mr. Robinson had occasion to visit the Department of Justice, is that right?—A. There was.
>
> Q. And will you explain to the jury the circumstances of that?—A. Yes. I am very happy to. One, and perhaps the main problem to arise at the time of the loan negotiation, we have gone into the Desser & Garfield, where they were asked, they were to borrow money for this development from First Continental. The problem arose to secure FHA approval. I may say that land planning and site location [1217] had to be approved by FHA, but more important was approval of the lending institution. In this case it was First Continental Savings and Loan Association, and without such approval, why, any development, of course, in this case was virtually hopeless. Congressman Boykin thought that there would be no difficulty in respect to FHA. He suggested—and I am referring to notes which I have here on it—that a Mr. Prince, a gentleman I think I have met—I don't know him too well—and another gentle-

man whose name I do not recall, attend to the securing of the approval of FHA.

Congressman Boykin later told me that FHA just would not approve First Continental Savings and Loan, as it was not under State regulation. After further inquiry it seemed that the real objection was a bad report on Mr. Kenneth Edln as to pending violations, past violations, and that he was connected with First Continental Savings and Loan Association.

Q. At this time did you realize Mr. Edlin was under indictment?—A. I think we at this time just probably had gotten to that when we got that report there on that.

Q. This was approximately in March of 1961, approximately March?—A. Approximately March, yes. I don't know how much earlier I had known that but I did know at this time. We confronted Mr. Edlin and he stated that he had heard of the report, that it was for the most part, false and he could prove it.

Furthermore, he denied categorically that he was an officer, director or stockholder in First Continental Savings and Loan.

These developments more or less brought a close to the negotiations with Desser and Garfield.

Now, did you so testify before the Grand Jury, Congressman?—A. I did, yes.

[1218] Q. And is that testimony true today?—A. It is true. Yes, with additional testimony.

Q. What additional testimony?—A. Well, as to what is stated on page 77 as to what it meant to Maryland, the development. And the other matters referred to.

Q. Is it not a fact that when you testified before the Grand Jury, it was your testimony that the lending institution, involved in the Desser and Garfield proposed loan, was the First Continental Savings and Loan?—A. That is correct.

Q. But the memorandum which you delivered to the Attorney General, Government Exhibit 86–B, which you read from a moment ago, indicates that First Colony was the lending institution, does it not?—A. That is true.

Q. And does not mention First Continental?—A. That is true.

Q. Congressman, in connection with the Desser and Garfield negotiations you produced an exhibit identified as Defendant Johnson's exhibit 71, which appears to be an agreement for sale, and that has some penciled notations that are apparently in your handwriting, does it not?—A. It has.

Mr. DOUB. What is that exhibit number?

Mr. MARION. No. 71.

By Mr. MARION:

Q. And, is it not a fact that those penciled notations in your handwriting were placed on that document after the beginning of this investigation?—A. They were.

If I could see the original—I do not know whether they were inside. This is in regards to the exchange of stock and this was a notation to give the number of shares in exchange. Do you have the original, and I can tell.

Q. This is the original, is it not?—A. This is the original but I thought you might have a photostat.

[1219] Q. No, unfortunately we did not provide a copy.—A. The ones on the front are mine that have been added but I do not know as to the ones inside.

Q. You would not deny that the ones inside might have been placed on there?—A. I do not think they were. I think that the ones on the front were placed there.

Q. Do you know where you got that document, Defendant Exhibit 71, which I just showed you, when you produced it at this trial?—A. No, I do not. Whether I got it from Mr. Robinson or whether from my file. It dealt with the exchange of stock between Lefcourt and the two savings and loan associations.

Q. I show you Defendant Johnson Exhibit 73, which is a copy apparently of an agreement modifying purchase money mortgage and I note that on pages 3, 4, 5, and 6 there are certain penciled notations. I ask you to state whether or not those were not placed on that document after the beginning of this investigation, with the possible exception of the handwriting on page 4 which you identified on direct examination as not being in your handwriting?—A. There is nothing on page 1, 2——

Q. On page 3 there is a penciled notation in the lefthand margin.—A. Yes, just changing "timber," that is the only thing I see.

Q. On page five there is—there are some notations in your handwriting?—A. Very minor. Just a word changed in the explanation, so I would not take the time of the jury, but there is practically no change.

Q. Is it not a fact that the penciled notations on this document which are in your handwriting were placed on the document after the beginning of the investigation?—A. It was. Just at the time of the trial to explain. As I say, there are none there to speak of.

Q. I show you Defendant Johnson's Exhibit 74, which I think you identified as another copy of the agreement [1220] modifying the purchase money mortgage, did you not?—A. I did.

Q. And there are penciled notations in your handwriting, are there not, on the first page?—A. There are, yes.

Q. And on several of the inside pages, page four there are some notes and on page five some penciled notes in your handwriting, are there not?—A. Just very minor ones.

Q. And those were placed on there, were they not, after the beginning of this investigation?—A. I am confident they were. If I am not mistaken, I believe it was the Court who suggested rather than reading these papers, to explain these papers and in order to conserve time, I penciled just——

* * * * *

Q. As a matter of fact, weren't those notations placed on there before you brought your files into Court?—A. That I cannot answer. I know some were put on here after it was brought in.

Q. I show you defendant Johnson's Exhibit 76 which appears to be a copy of a purchase money promissory note, and ask you if the notations in pencil in the lefthand margin were not placed by you on that document after this investigation had begun?—A. Yes, that is only just the year 17, 17 years' repayment.

Q. Now, in connection with the foreclosure which occurred, or the preparations to foreclose the property in Charles County, that matter was assigned to Mr. Carrico for handling, was it not?—A. At my request, I asked Mr. Carrico to do certain legal work for me.

Q. And it was to Mr. Carrico, was it not, that Charles County Land Company assigned the mortgage for purpose

of foreclosure?—A. As the local counsel, subject to my instructions.

Q. And that mortgage was never assigned to you for [1221] purpose of foreclosure, was it?—A. No, there would be no occasion for it.

Q. And under the terms of the original Ernest purchase money mortgage if any attorney were entitled to petition the Court for any petition for the foreclosure it would have been Mr. Carrico, would it not, since it was to him that the mortgage had been assigned for the purpose of foreclosure?—A. Mr. Carrico had the privilege but it was understood beforehand that he would not do so.

Q. It would have been he, would it not, who would have had the privilege of petitioning the Court?—A. He would.

Q. And, as a matter fact, no one petitioned the Court for any fee as a result of those proceedings in Charles County, did they?—A. No, because of my instructions that there would be no fee to Mr. Carrico other than what was agreed upon by me.

Q. And Mr. Carrico had agreed in advance, had he not, to a fee of $1,500?—A. That is correct.

Q. For this foreclosure work?—A. That is correct.

Q. And he subsequently billed Charles County Land Company for $1,500 and costs and he was paid that amount, was he not?—A. Yes.

Q. Let me show you defendant Johnson's Exhibit 31, which is a notice of sale in connection with the Charles County foreclosure, and ask you whether or not the penciled notations on page 1 and on page 4 were not placed there by you after this investigation was begun?—A. Yes, it is only interest and tax.

Q. And what are the penciled notations on page four?—A. Merger of interest.

Q. And are there not citations of cases on page four, Congressman?—A. There are, which I did not cite.

Q. And those citations were placed there after this investigation had begun, were they not?—A. Well, during the investigation.

[1222] Q. After 1962 had begun?—A. Yes.

* * * * *

Q. Congressman, I show you defendant Boykin's Exhibit 11 for identification and ask you if that document does not con-

tain certain penciled notations in your handwriting?—A. It does. I think, for the most part, on page 1, showing the modifications.

Q. And are those penciled notions—strike that.

Were those penciled notations not placed on that document after the beginning of this investigation?—A. That I do not know. If you say they were. I would accept it because I do not know. But they are very minor, only the modifications.

Q. Would you look at page five—I am sorry, page six?—A. Six.

Q. And in the upper lefthand corner would you read the notation which appears there?—A. Yes.

> Bill, Frank wants the timber exception removed. Find out if there is a sale timber agreement.
>
> Except these trees having a diameter of less than five inches for soft wood and eight inches for hardwood.

Q. And the notation on page 7 says what?—A. "Do not like provision."

Q. Page 16, would you read that notation on page 16?—A. "Amended by adding an additional 1060 acres to be selected by mortgagor."

Q. Does it say "amended" or "amend"?—A. It is my interpretation. "Amended."

Q. Read what it says, if you please.—A. That was my interpretation of the shorthand.

> Mortgage to run for 17 years. Also reserves an area 11 feet wide around entire tract for bridle path. [1223] Something should be worked out in event of foreclosure to protect 11 feet as well as drainage ditches. Contingent upon mortgagor should join loan of $2,400,000, 15 years, 6 month construction loan.

Q. You do not deny, Congressman, that those notations were placed on there after this investigation had begun?—A. I don't deny but I don't recall when they were put on.

Q. Do you have doubt in your mind as to when they were placed there?—A. Well, I just do not know.

Q. Let me show you this thermofax document and ask if this is not a thermofax copy of that document which was provided to the FBI on January 19, 1962?—A. Just a minute. I was seeing if I have a clean copy in my file.

I see I have in my file a clean copy. I do not know whether it is from this or not.

Q. When did you obtain that clean copy?—A. I have had it.

Q. Which one was the Thermofax made from?

Mr. MARION. I asked whether Congressman Johnson could tell which photostat the thermofax was made from.

The WITNESS. I couldn't tell. This is a clean copy and I do not know which it is made from.

* * * * *

Q. Congressman, is it not true that you were never consulted as an attorney in connection with any loan transactions or agreements between First Continental and Charles County Land Company, or Leisure City Land Company?—A. I do not think that I was consulted as to the loans themselves, no.

Q. And you did not participate in those loan negotiations or agreements, did you?—A. Now, which specific ones?

Q. Agreements between First Continental or First Colony on the one hand and Charles County Land Com-[1224]pany and Leisure City Land Company on the other hand.—A. I was under the impression I had not. My recollection has been refreshed by Mr. Adelberg who tells me that I did have knowledge of the First Colony from Charles County.

And Mr. Robinson tells me of Leisure City with First Continental. But that was refreshed after this case started.

Q. He told you that you had participated in the Loan transaction between First Continental, was it, and Leisure City?—A. No, not in participation, only as to the paper work.

Q. Congressman, is it not true that at the time a loan agreement was transacted between Leisure City and either First Colony or First Continental that you knew that it was against the law in the State of Maryland for a savings and loan association to lend money secured by land outside of the State of Maryland?—A. Did I know?

Q. Yes.—A. I knew there was a regulation.

Q. And you knew that as early as March of 1961 that it was against the law, did you not?—A. Well, I think it was before that there was a policy, too, as to loaning outside. But I think the new regulation which went into effect in June of 1961, but at the time that this loan was made which I understand was in April, the law was not in effect.

Q. Well, we are talking about the old law. Didn't you know that under the old law that this was against the law and didn't you know it as early as March of 1961?—A. My understanding was it was in the new Act.

Q. Let me ask you if you testified as follows before the Grand Jury, beginning on page 51—the Federal Grand Jury, in reference to the Miami trip in March of 1961?

Q. What lending institutions had the loans?—A. I don't even know on that. I do not even know.

[1225] Q. Were they institutions for which Edlin and Robinson spoke?—A. Well, no institution was ever mentioned. They merely appeared at this conference to review the loans. There were two loans. One I think was in Fort Lauderdale and one in Miami and there were possibly two meetings on that.

Q. These are loans on Florida real estate?—A. They were on Florida real estate.

Are you a member of the Florida bar?—A. No. What happened on that, they wanted me to be present and hear the discussion, which I sat in, I think possibly two meetings. I don't think anything was ever——

Q. Who was present at these discussions?—A. There were some developers in Florida.

Q. Is it possible you could have done any other work in connection with the First Colony Savings and Loan Association, or Mr. Edlin while you were in Florida?—A. I do not know of any but I am glad you brought out the other point because I did raise about loaning in Florida and under our Maryland Law, why, that was out.

Q. You mean they were speaking for the Maryland savings and loan?—A. They spoke about loans. They did not identify but I did make clear that I could not go into the outside.

Q. Was the First Continental and First Colony Savings and Loan involved?—A. It could have been but they did not mention names at all.

Q. They did tell you they represented Maryland lending institutions? Why did you bring it up in the first place before the Grand Jury that it was against the law for a Maryland Savings and Loan to lend outside the State—what is the relevancy of that to your testimony?—A. Well, I gave you the advantage of what information I had at the conference there.

[1226] Now, Congressman, was that your testimony before the Grand Jury?—A. Yes, it was.

Q. Is that true today?—A. It is true under our present Maryland law.

* * * * *

Mr. MARION. I wish to show through this line of questioning that Congressman Johnson knew prior to any Leisure City loan that it was against the law in the State of Maryland, or at least under the interpretation which he had of the State of Maryland, it was against the law and that, therefore, it is improbable that he would have given any advice to that loan transaction involving Leisure City Land Company.

By Mr. MARION:

Q. Is it not also a fact, Congressman, that the only transaction which you had any part in or took any personal part in which involved in any respect a loan from First Continental to Charles County was the payment of the $225,000 payment by Charles County Land Company to Desser and Garfield in July of 1961, out of moneys loaned by First Continental to Charles County Land Company?—A. I testified that I am fully familiar with that transaction.

Q. Is that the only transaction involving a loan between those associations, First Colony and First Continental, and Charles County Land Company about which you had personal knowledge?—A. I had thought that was the only one. It had been called to my attention that I had knowledge of others, but I do not have independent recollection.

Q. Of any others?—A. Because there was a tremendous amount of work going on and a tremendous number of conferences.

Q. And, is it not a fact that you never had all the details of that transaction in July of 1961?—A. I did not have as to the makeup of the $225,000 payments as to [1227] what it represented fully, in detail. The legal aspects I did.

Q. Is it not further a fact that you never participated as an attorney in any respect in the transfer of the title of the Charles County land to Charles County Land Company?—A. Not as to title. I did not prepare the deed. They gave me the deed to review. There were two deeds, one a fee simple and the other the warranty deed together with a number of other papers as contained in my letter of June 20, I believe it is.

Q. And, is it not a fact that you did not participate at all in that transfer of title to Charles County Land Company of

the land at Waldorf, Maryland?—A. May I get the exhibit that shows the letter of transmittal?

Q. You certainly may. I do not know which one it is.—A. It is either July 10 or July 20.

Q. You are referring to the letter of July 14.—A. 14th?

Mr. MARION. From Robinson to Congressman Johnson, defendant Johnson exhibit.

The WITNESS. I may have a copy.

By Mr. MARION:

Q. Is this the one you refer to?—A. Yes, in answer to your question I refer to the letter to me in which I received a check in the amount of $225,000 and with a number of conditions to be met before I released the money. And that involved the review of the warranty deed, the quit claim deed, together with other matters but I did not prepare the deed.

Q. Let me ask you, Congressman, if you testified as follows before the Montgomery County Grand Jury.—A. What page is that?

Q. Beginning on page 16, first of all at approximately the middle of the page.

> Q. In other words, whenever after the incorpora-
> [1228] tion of both of these corporations—

and I think they are referring to Charles County and Leisure City—

> it came to negotiations and dealings in regard to mortgages or sales or purchases of land, Mr. Kenneth Edlin would be the dominant figure in that he would be the one that would tell you or instruct you as to what he wanted.—A. Well, not as to the legal standpoint.
>
> Q. I am not talking about the legal standpoint. I am talking about dollars and cents, the negotiations.—A. Well, I never at any time discussed or had any dealing in to any loans through Mr. Edlin or his association in which he was connected. In other words, as to the Leisure City, as to the Southern Maryland Land Company, all of those negotiations with loans were not in my presence, nor did I hear except the $225,000.
>
> Q. And the $225,000, was that Mr. Edlin's, did he participate in that?—A. No, sir. That was the one that the letter was sent to me by Mr. Robinson which I read

which I would be happy to give you a copy, in which he delivered for Mr.—a law firm in Washington—to be delivered on the completion of certain items.

Is that your testimony?—A. It is. And, as I say, my attention has been called to the review of some others but I have no independent recollection of them.

Q. And did you also testify, beginning on page 32 of the Montgomery County Grand Jury transcript:

Question—beginning near the middle of the page, with reference to the persons you have previously named here in your cross examination as the officers of Leisure City Land Company:

Q. But you never dealt with those gentlemen at all?—A. No, I never dealt with them at all.

Q. You dealt with Mr. Edlin and Mr. Robinson?—A. Well, Mr. Robinson, yes.

[1229] Q. You keep saying Robinson. You dealt with Edlin, too, did you not?—A. In the essentials of negotiation, I was present, I heard conversation that he had with these groups who were interested in borrowing money and he was the one that did the talking.

Q. Robinson was not the one that did the talking when it came to negotiations and dealings to be entered into, is not that correct?—A. Well, as far as I know. But I say on the negotiations for loans, I was never present except at one.

Q. And did you know at that time, Congressman Johnson, that the money that was going to be lent would come from the First Continental Savings and Loan Association?—A. Only the one that I had personal knowledge, the one for $225,000, that is the only one that I have knowledge of.

Was that your testimony?—A. Yes, it was.

Q. And beginning on page 7, did you testify as follows, before the Montgomery County Grand Jury, near the bottom of page 7.

One negotiation we have in mind, sir, is the so-called mortgage. Evidence has shown it was not recorded, in the amount of $2,625,000 from Charles County Land Corporation to the First Continental Savings and Loan Association?—A. Yes, well, I did not participate nor

was I a part of that. There was a loan of two hundred twenty-five thousand dollars which I have knowledge of.

Q. Would you tell us about that one?—A. Yes, may I refer to my file.

Q. Surely.—A. Perhaps you are aware that with the failure of Desser and Garfield to get their funds that there was a foreclosure of the land in Maryland, and the day of the sale agreement was worked out with Desser and Garfield to sell their land to Charles County Land Company.

[1230] Q. Were you involved in that as an attorney?—A. I was involved only to the extent that I knew as to the sale but I did not have the details. The only thing that I had was that following the negotiations a letter was sent to me by Mr. Robinson under date of July 14.

Q. Of what year?—A. 1961. In which he stated that he was, that there was a check being turned over to me payable to Boykin and de Francis in the amount of $225,000, and to authorize to deliver this check to Boykin and de Francis subject to the following terms. There was received a warranty deed to the 97 acres which Desser and Garfield owned outright, quit claim deed to the 8800 acres remaining, assignment of notes of Ree,000 which had to do with the local newspaper, mutual releases by Charles County Land and its agents and Desser and Garfield, title opin from Local counsel to Mr. De Sales Mudd.

Q. Then who became the fee owner or title owner of that property?—A. Charles County Land.

Q. Did you participate in that as Attorney?—A. In what respect?

Q. In the transfer of the title.—A. No, that was—I do not know who handled the transfer of the title because I had no interest whatsoever in Charles County Land. I was not an officer. I was not a director nor shareholder whatsoever in it.

Q. Did you give any advice to Mr. Edlin, legal advice to Mr. Edlin or Mr. Robinson as a result of that foreclosure, that transaction at all?—A. The foreclosure was handled by an attorney in La Plata, a Mr. Carrico. Rudolph Carrico. He handled that.

Was that your testimony before the Montgomery County Grand Jury?—A. It was and I think when I said I did not know the details of the $225,000 that referred as to how that was made up, what that represented.

* * * * *

[1231] RECROSS EXAMINATION

By Mr. MARION:

Q. Congressman, you mentioned on redirect—telling the Federal Grand Jury or mentioning the sum of $25,000 before the Federal Grand Jury. Now, let me ask you, putting the sequence in its entire context, if this is your testimony?—A. What page is that?

Q. Page 70.

Q. It is my further understanding that at this time Congressman Boykin said that, if you were successful in bringing to him a prospective company or lender and putting together a deal, that he would see that you got a fee but that was not necessary because Mr. Robinson's interests were going to pay your fee, is that right?—A. No, I don't think that's right.

Q. Explain that then, because I'm a little mixed up on that.—A. In the general discussion they always said that, "You have to be paid for your trouble; that you are entitled to what we call a finder's fee."

I said, "I don't want any finder's fee. I only want legal fees for the work that I performed, and that was agreed upon."

Q. And the amount of your legal fees, and I am talking now only about the land transaction, the Charles County Land and Leisure City, the two tracts of land, was that to be based on the amount of money involved in the deal?—A. I don't know whether it was based on the amount involved. It was never set at all. We may have had discussions on it——

Q. Did they say, as in title settlements, a percentage of the amount involved in the final deal?—A. Personally, I had in mind, and I told them, that I felt I was entitled to a fee of $25,000. And that is what I have always felt that I was entitled to, but I did not receive it.

[1232] Q. But was it also if the transaction were successful, or if you were able to consummate it?—A. The feeling was that is would be successful, and I didn't think otherwise at the time. I would be happy to say at this juncture what fees I received.

Was that your testimony?—A. Yes, that is my testimony.

Q. It was later than that in the Federal Grand Jury testimony on page 88, was it not, Congressman, that you stated something that I read to you on cross examniation this morning, the statement that caused some concern which reads:

A. That, I don't know, because we haven't discussed a final, or even fees, in detail.

Now, that came after your reference to $25,000, did it not?—A. Yes. I never got my $25,000. In fact, I didn't get as much as I saved the land companies on the bond. But may I say in further explanation, Mr. Marion, that it was not all included for the foreclosure but I was to conduct the work for the Leisure City and the Charles County Land work in conjunction with that.

* * * * *

WILLIAM L. ROBINSON, a witness, having been previously sworn, resumed his testimony further as follows:

Mr. DOUB. I have just a few more questions, Your Honor, of Mr. Robinson.

DIRECT EXAMINATION (resumed)

By Mr. DOUB:

Q. Mr. Robinson, do you recall an airplane trip in July of 1960 from Washington to Miami with Mr. Edlin and Mr. Goldman?—A. Yes, sir.

[1233] Q. On that trip tell the jury whether you said at any time that you had written Mr. Johnson's speech?—A. No. That was not my statement at that time, no, sir. Nor at any other time.

Q. You say you did not make that statement on that plane trip?—A. I did not.

Q. Or at any other time?—A. That is correct, sir.

Q. Did Mr. Edlin make a statement that he had written the speech?—A. Yes, sir.

Q. Mr. Edlin said he had written it?—A. Yes, sir, he did.

Q. And what did you reply?—A. We had all had several drinks on that particular flight. Mr. Edlin was horsing around with several of his friends on the plane. He made this statement, and when he made it, I replied, "Mr. Edlin, you not only did not write that speech, you could not write a letter."

Q. In May or June of 1960 or at any other time, did you ever say to Sadie Goldman that "Mr. Johnson is on our payroll, it is costing Ken plenty", or did you ever use any comparable words?—A. No, sir.

Q. Now, there are in evidence, Mr. Robinson certain checks of First Continental Savings and Loan payable to Mr. Johnson which he deposited in his account at the Berlin Bank. Did you ever tell Mr. Edlin at any time in the presence of Mr. Jackson Rains, or not in his presence, that Mr. Johnson would not touch a First Continental check with a ten-foot pole, or words to that effect?—A. I have no recollection of any such statement. There was a period of time when First Continental was receiving a great deal of adverse publicity and anyone in any way associated with First Continental was being castigated in one way or another in the newspapers and it is remotely possible that during that period of time I might have made a comment something like that. I have no recollection of making it but there was a period of time when I do not [1234] think anyone wanted to be around First Continental when the Washington Post was working on it.

* * * * *

CROSS EXAMINATION

By Mr. WEINER:

Q. Mr. Robinson, before getting into the main stream of the matters about which you have testified on yesterday, there appears to be something in the transcript that you may want to clear up.

Yesterday His Honor asked you several questions with relation to your relationship with Charles County Land Company and Leisure City Land Company and also some questions with regard to the relationship that existed between the land companies, and the savings and loan associations.

* * * * *

Now, by that answer, Mr. Robinson, were you intending to convey the meaning or the impression that in these trans-

actions involving Charles County and Leisure City Land Company, you were merely an attorney for these companies and not a party to the transactions, or an officer of these companies?—A. I mean to convey by that statement that I did not have any proprietary interest in the transaction, that I didn't have an ownership interest in it.

Q. Ownership interest?—A. Yes.

Q. As a matter of fact, it is true, is it not, that you have even signed papers, including this copy of a sales contract dated the 29th day of April, 1961, for the sale of the Virigina land from Tensaw Land and Timber Company, Inc., to Leisure City Land Corporation as president of the Leisure City Land Corporation?—A. Yes, I did.

Q. That is your signature on that, is it not?—A. Yes, sir.

* * * * *

[1235] Q. As a matter of fact, Mr. Robinson, you were even an authorized signatory on the checks of the Charles County Land Company, were you not?—A. I am not sure whether I was or not. I very well may have been, sir.

Q. Let me show you what purports to be a check of the Charles County Land Company and I direct your attention to the first line of the two people signing that check and ask you if that refreshes your recollection as to whether or not you were an authorized signatory on the checks of Charles County Land Company?—A. It does not refresh my recollection but seeing my signature on here makes me absolutely certain that I was.

Q. Is it your testimony, as I understand it, that you were signing papers as President of one of the land companies and signing the checks of the other one of the land companies without ever knowing who the principals were that you represented?—A. That is correct.

* * * * *

By Mr. WEINER:

Q. Now, the last paragraph of the Court's question on page 4320:

> Now, you say you do not know; is that it? You do not know who really owned these companies?

Speaking of the land companies.

> Who the beneficial interest of these companies resided in.

The WITNESS. I told you exactly what I knew, Your Honor, that Mr. Edlin stated he was representing a group of investors from various cities and that they were the parties principal to Charles County and Leisure City. It was my impression that the same group that was referred to in Charles County was also being referred to in the Leisure City. I certainly knew that First Continental Mortgage Corporation was not owned by a syndicate or group but [1236] I was not acquainted with, nor was I advised, nor did I ever meet the members of this syndicate.

Now, do you recall that testimony?—A. Yes, sir, I do.

* * * * *

Q. Mr. Robinson, Let me ask you this question: Have you ever heard of a company known as Edlin, Goldman, Robinson, Inc.?—A. I have, sir.

Q. Was that a New York Corporation?—A. Yes.

Q. Was it in existence in August through December of 1961?—A. I am not that sure of the dates. It sounds like it is correct, sir.

Q. And the Robinson there in Edlin-Goldman-Robinson, was that you, sir?—A. It was, sir.

Q. And was this not a company operated in New York for the solicitation of savings and loan deposits?—A. That was the thing that its activities consisted mostly of. That was not its only purpose but that was primarily the only activity it ever engaged in.

Q. Those were the only activities it engaged in from August to December, 1961, is that right?—A. Not quite, sir. Very close to it. There were several attempts, several unsuccessful attempts to arrange through the sale of limited partnership arrangements which were fairly popular in New York at that time. Negotiations had been had on behalf of that corporation in that field but we never did succeed in their negotiations.

Q. And in this primary purpose that Edlin, Goldman and Robinson had of soliciting deposits, they were soliciting deposits, were they not, for First Continental and First Colony Savings and Loan Associations?—A. I do not remember whether they solicited for both or not, sir. I know they were soliciting accounts for First Continental and possibly for First Colony.

Mr. DOUB. Possibly what?

[1237] The WITNESS. Possibly for First Colony. I do not remember for certainty they did.

By Mr. WEINER:

Q. You do know they were soliciting accounts for First Continental?—A. Yes, I am sure of that.

* * * * *

[Government Exhibit 188–A through 188–K marked for identification.]

By Mr. WEINER:

Q. Mr. Robinson, I show you Government Exhibit 188–A through 188–K, for identification, and I ask you if it is not a fact that both the Leisure City Land Corporation and the Charles County Land Corporation between August and December of 1961, paid or advanced some $30,000 to Edlin, Goldman, Robinson, Inc.?

Mr. DOUB. What period is that?

Mr. WEINER. August through December.

Mr. DOUB. 1961?

Mr. WEINER. Yes.

The WITNESS. I did not actually total these but they appear to be in the approximate sum you mentioned in your question. I would say these sums of money were paid by Charles and Leisure to Edlin, Goldman and Robinson, yes, sir.

* * * * *

Q. Can you remember, Mr. Robinson, being called on the phone by two agents of the Miami FBI office on January 26 of 1962?—A. I recall that call. I am not certain it was January 26. It was in January.

Q. It was on a Friday that they called you?—A. I could not say that, sir.

Q. Pursuant to that call you made arrangements or the FBI agents made arrangements to come to your office and [1238] interview you the next day, right?—A. They made arrangements. Whether it was the next day or not, I do not know. Certainly it was within a very close proximity of the call.

Q. And after these arrangements were made, agents Strickland and Trettis came to your office, on a Saturday morning, did they not?—A. I remember the name Strickland. I presume you are correct in the other name. I do not have a complete memory of it. I do not remember the name.

Q. Mr. Strickland is a sort of short, middle-aged man?—A. I do not doubt it. I do not personally remember his name. I do not doubt you are correct.

Q. They came to your office at about 9:30 or 10 o'clock in the morning?—A. I think it was in the morning.

Q. And they advised you at that time, did they not, that they were conducting an investigation?—A. Yes, they advised me they were conducting a mail fraud investigation, in fact.

Q. Is that what they told you?—A. Yes.

Q. The FBI agents?—A. They did not volunteer it. I asked them, and that was their answer.

Q. They told you, though, that you did not have to make any statement to them, if you did not want to?—A. Yes.

Q. And that any statement you would make would be voluntary on your part?—A. Yes.

Q. After they had advised you that you did not have to make any statement, you talked with them for an hour or two, did you not?—A. On a question and answer basis.

Q. They made notes as they talked to you?—A. Yes, sir. They would ask a question and I would answer it and they would make notes of my answers.

Q. After this discussion with them at about 11:30 or so they left your office and said they were going to go over to [1239] their office, did they not, and have what you had told them typed up in a narrative form?—A. Yes.

Q. And about 3 o'clock that afternoon they came back to your office; is that right?—A. They came back. I do not remember whether it was the same day or not but they certainly—no substantial period of time passed.

Q. And they had a typed statement with them, did they not, in the narrative form, that was about 12 pages long?—A. Yes, sir.

Q. They told you then, or they gave you the original of that, did they not, at that time, to look at and they told you——A. Yes.

Q. Anything you wanted to change, if there was anything in there you did not like, you could charge it?—A. I think they did.

Q. And, as a matter of fact, you read through it, did you not?—A. Yes.

Q. You, in some places, made changes in ink?—A. I think there were one or two changes made in ink. I do not know how many.

Q. And some other places whole paragraphs were taken out and new pieces typed up in your office as a matter of fact, and added to the statement, was not that true?—A. That is possible. It may well be true.

Q. And after all this correctional process was done, you then signed the original of that, is that right?—A. I signed it, yes, sir.

Q. They gave you a copy of that statement for you to keep, is that right?—A. Yes, they did.

Q. Can you tell us when it was that you first gave it, gave either your copy or a copy made from your copy of that interview to Congressman Johnson?—A. In the preparation of this trial after the argument of motions, I would say.

[1240] Q. That was about when?—A. It seems like a year ago. I think it was about two months ago—something like that.

Q. And, did you give another copy of that to Mr. Doub?—A. No.

Q. That was Mr. Johnson's copy that he had?—A. Yes. No, that was a copy of Mr. Johnson's copy, I think.

Q. Do you have your copy with you?—A. I have a copy with me. I am not certain that it is correct with all of the corrections. It may be. I think it is but I am not certain.

Q. On page two of this statement the paragraph that begins at the top of it, it is as follows, is it not:

> I am acquainted with Congressman Thomas F. Johnson of Maryland. I can not recall the exact date that I met Congressman Johnson but I know that he made a speech in the United States House of Representatives defending the operations of the independent savings and loan associations of Maryland. I have been informed that this speech was made on June 30, 1960 and to the best of my recollection, I first met Congressman Johnson within two to six weeks after this speech. I am not positive but I believe I met him at his Congressional office at a scheduled meeting.
>
> I have been friendly with Congressman Johnson. I have been in his office on a number of occasions and have conferred with him quite frequently.

And that is the paragraph from the statement, is it not?—A. Yes.

Q. You read that before you signed the statement, did you not?—A. Yes, sir.

Q. Then on page 11 of the statement, the last paragraph which begins about the middle of that page:

> I am aware that Congressman Johnson did make a speech on the floor of the United States House of Representatives regarding savings and loan associa- [1241] tions in Maryland. However, I was not acquainted with Congressman Johnson at that time and I do not know who prepared the speech and do not believe the speech was prepared by Martin Heflin. I am acquainted with—

the word is "Marvin" there but I think that is a typographical error, I think you will agree.—A. Yes, sir.

Q. [Reading.]

> I am acquainted with Marvin Heflin and in the past have prepared memorandum to him concerning proposed speeches but I did not furnish him with any drafts concerning the speech made by Congressman Johnson.—As far as I know, no money was paid to Congressman Johnson by Mr. Edlin, First Continental Savings and Loan Association, First Colony Savings and Loan Association, or any officer of these institutions, and it is my opinion that, if such payment had been made, I would have known it.

And then on page 6—

* * * * *

By Mr. WEINER:

Q. I was just about to move to the payment section.

Now, if you will turn to page 6 of your statement, the last line, which begins as follows, does it not:

> I have examined my canceled checks and I have in my possession the original of the following checks which I drew against my personal accounts at the Industrial National Bank, Miami, Florida, payable to Thomas F. Johnson or Johnson & Johnson.

Thereafter, Mr. Robinson, you list a number of checks, do you not?—A. Yes, sir.

Q. And nowhere in that list do you include the check of June 20, 1960, do you?—A. Not only did I not include it, sir, I particularly stated that I had no knowledge about such a check.

[1242] Q. Yes, sir.

On page 9 of your statement you said this, did you not?

> Also I do not recall writing a check on my personal account on June 20, 1960 in the amount of $500 payable to Johnson and Johnson. To the best of my recollection I did not know Congressman Johnson.

Wait a minute there. There were some inked changes. The inked changed referred to the sentence before the one I read, did it not?—A. Yes.

Q. [Reading.]

> To the best of my recollection, I did not know Congressman Johnson at that time.

Now, that was your statement?—A. Yes.

Q. And that was in answer to the specific question by the agent whether or not you had drawn a check on June 20 payable to Mr. Johnson in the amount of $500?—A. It was, sir. And, further answering your question in that regard, Mr. Weiner, at the time of this interview, I had been advised by them that they wanted to talk to me about some checks in regard to Congressman Johnson and at that time I associated Congressman Johnson and my early meetings with him as having to do with Assateague and it was my recollection and belief at that time that those had taken place in July. I ordinarily remember things by events unless I have something else I can go by and I therefore had pulled all of my checks and asked my secretary to pull my checks and she says I told her to start with July. She pulled my checks from July on. When the agents were talking to me, I thought I had all the checks I had issued to Congressman Johnson.

We went over them. They specifically asked me about that specific check. I was absolutely certain I had met Congressman in July at the time; it was my best recollection then.

[1243] I insisted there was no such check. It was obvious they had been checking my bank account and I still did not believe there was such a check at that time. Subsequent to that I did locate the check.

In addition to that, I had told Congressman Johnson this—he insisted I was wrong and provided me with copies of letters I had written to him, long before June. It was on the basis of these letters that I am unable to ascertain when these Assateague Bay negotiations were which was when I met Congressman Johnson.

When I was talking without these things before me, just off the top of my head, to these agents, it was my recollection and very strong belief at that time that our first meeting had been in July.

Q. When they came to you first in the morning session, were you then not questioned about the June 20th check?—A. Oh, I am sure they questioned me about it.

Q. Because that was part of what they then went back and typed up?—A. Yes.

Q. Are you saying that, after being asked about this June 20 check in the morning session and after their leaving with the acknowledged purpose of going back to incorporate that into a written statement, you did not make any effort to look at your checks for the month of June to see whether you had written the check in June?—A. I was absolutely certain that they were wrong. I was positive they were wrong.

* * * * *

Q. Now, Mr. Robinson, I believe you also testified, and correct me if I am wrong, that because of the way that you were impressed with Congressman Johnson in these Assateague Bridge negotiations, you went to see Congressman Johnson sometime in August, on August 20 and talked to him about representing you or your company.—A. I think that is probably a fair interpretation of what I have said. I do not think that is exactly the way I said that.

* * * * *

[1244] Q. Now, that check is August 30. There was a settlement—was there not, of the Engineering and Development Corporation loan on September 9 of 1960?—A. It was certainly very early in September. My best recollection is it is the 9th. In fact, if you asked me, I would have guessed it was the 6th. The 9th might be correct.

Q. The settlement took place, did it not, in Upper Marlboro in Prince Georges County?—A. It did, sir.

Q. This was a three party transaction, was it not?—A. Yes, it was.

Q. There was a sale of land so there was the seller and the purchaser and First Continental Savings and Loan Association as the lender to the purchaser?—A. That is correct, sir.

Q. And the seller was a company by the name of Hopkins and Wayson, Inc.?—A. Yes, sir.

Q. They were represented by Mr. Lansdale Sasscer and Mr. Buscher, were they not?—A. I remember very well, Mr. Sasscer.

Q. And at the settlement the buyer which was Engineering and Development Corporation was represented by Mr. Daniel Singer, was it not?—A. I do not remember Mr. Singer, whether he was present or not. I think he was their attorney but I am not sure he was at the settlement. He may have been.

Q. You do not think he was at the settlement.—A. I do not think he was but I could be wrong.

Q. At that settlement on behalf of First Continental Savings and Loan Association, were you and Mr. Paul Berman—— A. Yes.

Q. Representing First Continental?—A. Yes.

Q. Mr. Paul Berman is a Baltimore, Maryland lawyer?—A. Yes.

Q. And at that settlement the First $95,000 of this loan [1245] was disbursed, was it not, to go to Hopkins and Wayson, Inc.?—A. I think that is correct, sir.

Q. And a check had been issued the day before the settlement from First Continental, had it not, to Mr. Berman so that Mr. Berman could then issue his own check to pay the first $95,000 of the loan proceeds out of the settlement?—A. I think that is correct, sir.

Q. And it is your testimony, is it not that Congressman Johnson reviewed none of these loan papers between August 20 when you first saw him, and September 9 or the 8th or the 6th, as you seem to recall, the day of settlement?—A. That was not quite my testimony, Mr. Weiner. My testimony on direct, if I remember correctly, was that during my conference with Mr. Johnson, I discussed with him the Engineering and Development Loan which was then being prepared and with the counsel that had been representing me up until that time. That I discussed that with him to some extent to familiarize him and to give him an idea during that conference of the

type of work and so forth that we did. I believe that was my direct testimony and at that point Mr. Doub interjected a question I think that took me off of the subject.

We did not complete the discussions of that. At that time, Mr. Johnson, when I told him about our procedure of loan agreements and mortgages, and so on, he asked me if we recorded our loan agreements.

I told him no, we did not but I always referred to them in the mortgage and I thought that would be sufficient notice. That it was against our policy to record loan agreements because they set forth so much of our business principles and activities that we felt that we did not want to put them of record and just tell everybody who we were conducting our business with. We did not think it was good policy. He did recommend to me at that time that he felt that I ought to record them and if I felt that my loan agreements contained materials which I did not want to record, that I would do well to revise my loan agreement or incorporate it within the terms of [1246] the mortgage. But this was not legal advice I had sought. This was just a general discussion that we had and I completed these arrangements with Mr. Berman and I do not believe there was anything on my direct that would indicate anything to the contrary.

Q. And when you completed these negotiations with Mr. Berman after this alleged conversation with Congressman Johnson, you did not say one word to Mr. Berman, did you, that Congressman Johnson had made that sort of a suggestion to you?—A. No, sir, I had no intention. I knew my client would never allow me to record one of these construction loan agreements. One had been recorded upon one time and that was the one and only time it was ever done and it was done without the client's knowledge and there was no reason to do it.

Mr. Johnson made a recommendation. He did not say what I was doing was illegal. He thought it was a bad practice, that something else ought to be done. That we ought to revise our loan agreements but this was not telling me that what I was doing was illegal. No, I did not discuss it with Mr. Berman. I did not believe there was any reason why I should, sir.

Q. The mortgage which was put on did not contain that suggestion, that alleged suggestion?—A. No, sir. As a matter of fact, that mortgage was improperly drawn and corrected for me by Mr. Lansdale Sasscer at that meeting.

Q. At the settlement?—A. Yes, sir.

Q. What was wrong with that mortgage that had to be corrected at the settlement?—A. There was no affidavit of consideration on it and it had been approved by my Maryland counsel and Mr. Sasscer took me aside and told me it was incorrect.

Q. He advised you that the mortgage was not any good?—A. We put one on it at that time.

Q. You knew as of the day of that settlement, did you not, back in September of 1960 that there was a re-[1247]quirement for affidavits of consideration on Maryland mortgages?—A. I did, sir.

Q. Were you not shocked or surprised that you did not have it, this affidavit of consideration on your printed form for the Cassell Mortgages?—A. I did not realize it was not on the printed form, sir. This was a typed mortgage that I had typed up that we had at the Sasscer meeting.

Q. And you never went back and looked at any of your other mortgages after hearing that the one you had here was no good for an affidavit of consideration?—A. I corrected five mortgages thereafter that were typed mortgages that were renegotiated and actually had not had them. I saw that they had them. After that I never checked the printed mortgages. I was satisfied they were all right.

Q. You mean after looking at this one and finding it was bad and after correcting five other typewritten ones and finding they were bad, your testimony is you made no effort to look at any of your printed mortgages to see if they were all right?—A. No, sir, the printed mortgages had been prepared from a Maryland form. I was not in the least bit concerned with it.

* * * * *

Q. In your FBI statement, Mr. Robinson, you had a paragraph, did you not, with respect to this Engineering and Development Corporation loan?

* * * * *

Q. This is the paragraph, is it not:

> In connection with my duties with the First Continental Savings and Loan Association, I have consulted Congressman Johnson on a number of occasions concerning legal matters. There was a loan to Alfred Kastner

involving approximately $800,000 and I prepared the necessary mortgages and other documents to be filed in the State of Maryland and I was informed that certain phases of these papers did [1248] not comply with the laws of the State of Maryland and I, personally, requested Congressman Johnson to review all of the papers and documents. Congressman Johnson later advised that a portion of the papers were not prepared in accordance with the laws of the State of Maryland and he assisted in preparing the papers in correct order. And also reviewed all of the details concerning the agreements in connection with the loan.

That was your statement, was it not?—A. That was my statement then, yes, sir.

Once again, as you know, Mr. Weiner, this was an interview involving activities that covered several periods of years on a question and answer basis and as far as this is concerned, I think I have testified to the number of times we discussed this with Mr. Johnson or that I did with Mr. Johnson and it was my best recollection at this time that some of those papers had been written over.

I may have in my mind very possibly confused it with some of the Cassell papers but that was my best recollection at this time.

Q. You say it was your best recollection when the FBI interviewed you back in 1962 that they had been?—A. Yes.

Q. As a matter of fact, it was also your best recollection at that time, was it not, that the $1,000 which had been paid to Congressman Johnson on August 30 had been for reviewing these papers and the Cassell transaction and not as a retainer?—A. I doubt if that is a fair statement. I think that was probably the result of the wording of the question that was an answer to. Certainly the $1,000 as a retainer and I believe I testified on direct that after he had received this retainer, he did various items of work during the year 1960 and we ultimately treated that as payment for those jobs. That is true. But I certainly do not believe I ever said I agreed to pay him $1,000 for doing these specific items and I do not believe that I said that here.

[1249] Q. Now, when was the last time you read through this statement?—A. Oh, about two days ago.

Q. Can you tell us whether there is any mention in there of the check of August 30 as a down payment on a retainer?

* * * * *

Mr. WEINER. I will read it over to him.

I have examined my canceled checks and I have in my possession the original of the following checks which I drew against my personal account at the Industrial National Bank, Miami, Florida, payable to Thomas F. Johnson or Johnson and Johnson.

Check No. 609 dated August 30, 1960 in the amount of $1,000 payable to Thomas F. Johnson. This check was for legal fees in connection with the mortgage and correction of papers concerning the Alfred Kastner and—and think I think "Incorporated" is added—and Cassell loans.

A. Yes, sir.

Mr. Weiner, as I say, this was based on a question-and-answer proposition and they wanted to have me relate these checks to services and to the best of my ability, I did so. They would not ask me what our financial relationships were and how they were established. They wanted to know what legal services I would relate to the $1,000 check and so forth. Now, this was a retainer in August. It was not set for any work in particular. As it turned out, we had testimony and when I give it a lot more thought, there are other items now that are not mentioned in here.

As you know, this was roughly about a two hour interview. It was without referring to any other documents, giving my memory right off the top my head, the best I could, to be cooperative but it was based on answering questions.

This was not a voluntary statement of facts. It was in [1250] answer to particular questions and the best recollection I had of the facts in reply to a specific question.

Q. As a matter of fact, you even corrected that paragraph and added in ink when brought back, the phrase "and Cassell Loan," did you not?—A. Yes, sir.

Q. And it is true, is it not, that the Cassell loan was not referred to Congressman Johnson for his examination until February 3 of 1961?—A. That is correct, sir.

I know that because I have in my possession or I have since this interview seen the letter of February 3, giving the exact time when it happened.

Q. Then the next check, is it not, the first of the series of the $800 checks?—A. Yes.

Q. It begins Check No. 1419 dated January 7, 1961, in the amount of $800, payable to Johnson and Johnson, was a continuation of the payment for legal fees in connection with the Kastner and Cassell Loans?—A. Yes.

Q. And then the next paragraph:

> Also check No. 673 dated February 2, 1961, in the amount of $800, check dated March 6, 1961 in the amount of $800 and check dated March 31, 1961 in the amount of $800. All payable to Johnson & Johnson were in connection with the work on the Alfred Kastner and Cassell transactions.—A. Yes, and I would say that this statement is correct. It is incomplete but there, in so far as it went, it is correct. These things were all deemed to be prepaid for by these sums. There were other services provided during this period of time which also were included within the $800.
>
> But the services he provided in January, February and March and so forth, they were all charged against his retainer and his retainer was deemed as his payment for those. He got no additional fees.

* * * * *

[1251] Q. Now, you also testified, did you not, about a mechanic's lien problem which Mr. Cassell had because of a mechanic's lien which had been filed by a road builder against Cassell properties, is that correct?—A. Yes.

Q. I believe your testimony was this fellow had walked off the job and claimed the $20,000 was due to him?—A. I do not know whether I used the word "walked off the job" or not. He had not completed his work. I do not remember now whether he walked off or just could not continue financially, or what.

The COURT. I gather there were claims both ways from what the witness has said and as I recall his testimony, it was something to the effect that the man claimed Cassell owed him $20,000 and Cassell claimed he had not performed and they were each I suppose, complaining. I do not think the word was used. Each claimed the other breached the contract. I gather that was the effect of his testimony.

Mr. WEINER. Yes.

By Mr. WEINER:

Q. And this mechanic's lien was causing some problem and that you and Mr. Edlin discussed it with Congressman Johnson. Is that right?—A. Yes, sir.

Q. Your testimony I believe on page 4224 was as follows:

> He suggested a settlement figure that he felt would be no more than it would cost to fight the case.
>
> I relayed that information to Mr. Cassell. He, in turn through his counsel, negotiated the matter and the claim was settled within the figure suggested by Mr. Johnson.

Was it your testimony that you relayed this to Mr. Cassell as a suggestion by Congressman Johnson?—A. I cannot tell you whether I mentioned Congressman [1252] Johnson to Mr. Cassell or not. I, frankly, do not remember. I am certain that I went to Mr. Cassell and told him that we had reached this decision. Now, whether I told him that Congressman Johnson and I and Mr. Edlin had reached the decision or whether I merely told him this was the decision but he was going to be bound by whatever decision we made because, in order to make any payment of any kind he was going to have to get it from us so he had to do what we wanted done in the matter.

Q. Isn't it true you never mentioned Congressman Johnson's name to Mr. Cassell as being an attorney for First Colony or First Continental?—A. Oh, I do not know whether I did or not, sir. I will be somewhat surprised if you say I never did. Do you mean at this particular meeting, or at any time, sir?

Q. Through 1961.—A. I doubt if that is very probable. I am almost certain that at some time along the line in talking with Mr. Cassell, I probably mentioned it.

Q. Do you know when and where that could have been?—A. No, sir, I feel like I saw Mr. Cassell enough times to where it seems unlikely to me I would not have mentioned it to him somewhere along the line.

Q. You never mentioned the name "Congressman Johnson" to Mr. Perry Bowen, who was representing Mr. Humphreys, either, did you?—A. I am not going to say I did not.

The COURT. The question should not be also, "neither," or anything like that. Ask the question without assuming a construction of the previous answer.

Mr. WEINER. Yes, sir.

The WITNESS. I am not even positive I even met with Mr. Perry Bowen at that time. I have been introduced to Mr. Perry Bowen. I may or may not have talked to him in regard to this matter. I have no recollection that I discussed this with Mr. Bowen at all. If not, the only time it would have been that I met Mr. Bowen would have [1253] been at a social function or just merely being introduced to him. At the most I do not think I ever saw that man more than three times in my life.

By Mr. WEINER:

Q. You testified that after all this had been taken care of and after you had some discussions as to whether you could put a second mortgage on where you held the first and continue to advertise in accordance with your policy, that you asked Congressman Johnson for a written opinion on this, is that right?—A. I asked him for a letter. I asked him for a letter.

Q. And that he prepared such a letter?—A. Yes, sir.

Q. You do not have it?—A. No, I would not have it. It would be at one of the associations. It would probably be at First Continental.

Q. Did you ever ask him, Congressman Johnson, for his office copy of this alleged letter?—A. Yes, I have and I am sure he looked for it and was unable to find it.

Q. Do you have a producible copy—that is, a copy that you can produce here in Court of any legal opinion or legal memorandum by Congressman Johnson written in the years 1960 and 1961?—A. No, I do not think he wrote very many opinions. If there were any that he had written I believe they would be at First Continental in all probability or First Colony.

That is where most of my records and papers are. The only one I particularly remember was this because I specifically wanted the letter for my protection when—for advertising purposes and it was a specific request of mine.

It was not a lengthy letter and my best recollection would be it was a one-page letter, but I would not want to swear to that. It could have been two.

* * * * *

[1254] Q. Mr. Robinson, you testified yesterday, did you not, about an agreement or meeting that you said took place on May 2 of 1961, at which time you and Mr. Edlin met with

Mr. Johnson and reached an agreement that Mr. Johnson would be paid $25,000 for the foreclosure and the followup on both Charles County and Leisure City Land Company, is that correct?—A. That is correct, except for the fact I do not believe that I said on May 2. I do not believe I was that certain of the date. I would be willing to concede it could have been May 2nd but I do not believe I said it was.

Q. This is the same meeting that Congressman Johnson referred to as being on May 2?—A. Yes, sir, I am not that certain of the date.

Q. I believe that Congressman Johnson testified with respect to certain payments on that agreed retainer having been made to him and that he had discussions with you with respect to these various checks which were paid to him as payments on that retainer.

Do you recall his testifying to that?—A. I recall that he testified in that area. I do not recall what his testimony was in that regard, no, sir.

I think I would like to see that if you are going to ask me about it.

Q. Do you recall on page 3967 of the transcript he was asked:

> How did you make known that you wished to receive the check dated May 25, 1960?

* * * * *

Q. It is on page 3957. It begins on the 7th line.—A. All right, sir.

Q. The question was: It was with respect to the check of May 25, and before that the question was:

> How would it be determined just when you would receive the subsequent checks after that meeting?

[1255] And the answer was:

> It could not be determined. I had to request or make known that it was due.

And then came the question:

> How did you make known that you wished to receive the check dated May 25, 1962, and to whom did you speak if you spoke to anyone.

And the answer was:

> Well, during the time certainly I was in touch with Mr. Robinson and no doubt I mentioned it to him.

Now, what I wanted to ask you is whether it is your recollection that you talked to Congressman Johnson and he made known to you that he wanted that check which was delivered to him on May 25, 1961?—A. I have no independent recollection of it, sir. It is possible. I do not think that it happened on very many occasions. There may have been one or two times when he told him—when told me "I think I am entitled to some more of my fee." That may have happened on one or two occasions. I certainly would not try to tie it to any particular check. I do not think it is possible to do that.

Q. Then there were some questions asked, Congressman Johnson, about these two First Colony checks which totaled $4,000, on May 23 and May 25, and the check which he said, the $4,000 check which he said was in substitution of them. Now, I think if you will look at page 3958, the second line was "To whom did you return them," referring to the two First Colony checks.

> I returned them to Mr. Edlin. I am not sure.
>
> Q. And to whom did you make a request that a First Continental Check in the sum of $4,000 be issued to you in substitution for the two earlier First Colony checks.—A. To both Mr. Robinson and Mr. Edlin.
>
> [1256] Q. Do you recall where that conversation took place?—A. In my office.
>
> Q. In Washington?—A. Yes.

Do you recall having a conversation with Congressman Johnson about the substitution of the First Continental check in the amount of $4,000 for the two First Colony checks?—A. I do not recall such a conversation, sir. It could very well have occurred. I certainly have no recollection of it at this time.

Q. When the FBI came and interviewed you, Mr. Robinson, they asked you about the two First Colony checks, on page 8, I believe, the two First Colony checks that had been issued to Congressman Johnson and they asked you about the various First Continental checks that had been issued to him, did they not?—A. They did, sir.

Q. And was this not your statement, beginning on the last full paragraph or the last paragraph beginning on page 8:

> I can not recall seeing any checks payable to Johnson & Johnson but the First Colony Savings and Loan Association on May 2, 1961 in the amount of $1,500 and the check of May 25 in the amount of $2,500. These payments could be disbursements under loans for legal services.
>
> Also, I have no knowledge concerning a check dated June 28, 1961 in the amount of $3,250 by the First Continental Savings and Loan Association payable to Johnson & Johnson, although this could be a disbursement of loan proceeds on a loan to the Leisure City Land Corporation for legal fees.
>
> Also, I have no full knowledge of a check dated May 2, 1961 in the amount of $3,500 payable to Johnson & Johnson, check dated May 25, 1961 in the amount of $2,500.
>
> [1257] And check dated June 7, 1961 in the amount of $4,000 payable to Johnson & Johnson. I am not aware of the reasons why these checks were made payable to Johnson & Johnson.

And then there is added in ink?

> But I believe they would be fees, either for legal services for Charles or Leisure City.

That was your statement at that time?—A. That was my statement and I would not be inclined to change it at this time. I think this: The only thing that is possibly confusing in that, Mr. Weiner, would be this: In regard to that change. I believe that the original question had been "Why would the checks be made payable to Johnson & Johnson," and I presume there is a preference but I did not have any particular reason or really know. I think the other was added on because we decided it was not clear the way it was said that I did not know why they were paid at all.

I have no recollection at this date that I, personally saw any one of these particular checks.

I cannot deny that I saw them. I cannot actually deny that I may have conceivably delivered one of them for all I know. I have no independent recollection of it.

I do know, and I have said in each instance here that they would be charged to the legal services. But I have to this

day—I have not examined the books of First Continental and we were trying, particularly throughout this thing, they particularly asked me to stick with what I could say was my absolute personal knowledge. They tried to avoid as much as possible understandings and beliefs and they also wanted me to say if I could, that I did not have the actual knowledge.

There were several occasions when they did not want my understanding. If I did not have actual personal knowledge, "they said we do not want anything else there."

[1258] This question and answer the way this was done, we tried to be very careful and there are a lot of things here where I had understood, and I had beliefs and they did not want that unless I could say I saw the check delivered and when it was delivered.

I was told that it was for this particular purpose. This was the way the examination was handled and that is why we get this in this shape.

Q. And when this examination first turned to the question of legal fees, didn't they ask you what you thought was the total amount of legal fees received by Congressman Johnson from all of these companies?—A. I think they probably did.

Q. And didn't you tell them, orally when the question was first asked of you, that you thought that the total amount that he received of all his legal fees for all his services was somewhere between $6,000 and $7,500?—A. I do not remember saying that.

Q. If Agent Strickland were to come here and say that you told him that on that day, would you deny telling him that?—A. I would say I would think he would be mistaken.

Q. I would like to ask you a question or two about another subject.

* * * * *

Thereupon, WILLIAM LEE ROBINSON resumed the stand and testified further as follows:

CROSS EXAMINATION (continued)

By Mr. WEINER:

Q. Mr. Robinson, in the course of the break we had did you have occasion to look at your statement again?—A. No, I haven't looked at it during the break.

[1259] Q. If you need to look at it, look at it. If you can't answer this question without looking at it, but isn't it true that this statement contains no reference to any alleged agreement that Congressman Johnson would get $25,000 for his work after May 2, 1961?—A. There is no mention, and there was no reason for any mention. What the gentlemen interviewing me asked me to do was in regard to actual payments which had been made. They asked me to describe the services which I could relate and what in my mind I related those payments to. This was the question I answered, and the answer, I believe, was responsive to that question. This was not a narrative, sir.

Q. There is in evidence—correct me if I am wrong—to my recollection, checks from First Continental Savings and Loan Association, which are Government's Exhibits 12, 13, 14, and 15, which total $13,250.—A. All right, sir.

Q. Plus two checks from you, drawn on your account, which are Government's Exhibits 67 and 83, which total $3,500.—A. All right, sir.

Q. Which comes to $16,750, is that right?—A. I presume your addition is correct. I haven't added them.

Q. Now, those were all the checks, were they not, paid to Congressman Johnson for his alleged work on these land deals from May 2nd up to the day on which the travelers' checks were discussed?—A. To the best of my knowledge that is correct, Mr. Weiner. I presume if there were others you would have had them here, but I wouldn't necessarily know of every check issued, depending on the evidence in this case.

Q. And the travelers' checks totaled $3,000?—A. That is correct, sir.

Q. And I believe that you testified that that was discussed with Congressman Johnson as the final fee, is that right?—A. That is correct. It was my understanding that that was to be his final payment, and I presume you would say that was the final fee, yes.

[1260] Q. Now, at the time when $3,000 would only total $19,750, was there any discussion as to whether, or any discussion about this being more than $5,000 less than this agreed retainer had been?—A. There was not discussion in my presence in that area. I was not present at the discussion where the $3,000 figure was arrived at. I did not participate in that discussion.

Q. You had nothing to do with that?—A. With the negotiations that established the $3,000 as the final payment, no, sir.

Q. Who did Congressman Johnson discuss that $3,000 with?—A. Sir, I wasn't present at the discussion. I can make a very educated guess, but I do not know, sir. I was not there.

Q. How did you know then that the $3,000 was to be the final fee?—In my conversation with Mr. Johnson he told me that his final payment was to be $3,000. I understood from Congressman Johnson that the figure was that. How he arrived at that figure, I do not know.

Q. Did you ask him how much he had gotten on his $25,000?—A. No, sir.

Q. Did he tell you how much he had gotten on his $25,000?—A. No, sir.

Q. Did you ask Mr. Edlin about this?—A. No, sir.

Q. Now, you and Mr. Edlin went to Congressman Johnson's office late in the afternoon of October 23rd, is that correct?—A. I think that is correct, sir.

Q. And after you were with him at the office, you all then went over to the Woodner Hotel, is that right?—A. Yes, sir.

Q. And that is later when Mr. Rains arrived with the travelers' checks?—A. Yes, sir.

Q. And Mr. Edlin and Mr. Johnson went over to another table?—A. Yes, sir.

[1261] Q. As a matter of fact, I believe you even told the FBI that although you understood they were paid to him, you didn't see them given to him?—A. I have no independent recollection of seeing them handed to him, no, sir.

Q. Now, the transaction was this, was it not: The 65 travelers' checks were given to Congressman Johnson to negotiate with whoever he was going to negotiate, and then Mr. Rains prepared a $3,000 check of First Continental Savings and Loan Association, which was sent down to Dallas, Texas, to the Republic National Bank, to pay for the travelers' checks?—A. I would presume he did so.

Q. And that check was drawn on October 23, 1961?—A. Now, I presume you are stating it correctly. I have no actual knowledge of it, sir.

Q. And on that same day, October 23rd, or that evening, you wrote a check for $3,000 on one of your accounts in Miami, and you made that payable to First Continental Savings and

Loan Association?—A. I believe Mr. Doub has that check if you would like it, Mr. Weiner. It might be more legible than this.

* * * * *

By Mr. WEINER:

Q. I have shown you the copy of the docket entries of that case, which are in evidence. Look at them and if that docket shows, does it not, that the arraignment was held on November 17, 1961?—A. Yes, sir, it does.

Q. That was the day on which the not guilty plea was entered?—A. It so shows.

Q. And the trial date was approaching, was it not?—A. I am sure it was.

Q. The proposed trial date?—A. I don't remember what the trial date was.

Q. And Congressman Johnson at that time was on his world tour, is that right? He was in Europe?—A. I believe he was. He left in October, I believe.

[1262] Q. October 23rd.—A. I don't remember his return date, but I am presuming from your question it must have been after November 17th.

Q. And the next day, November 18th, you and Mr. Edlin flew down to Mobile, Alabama, didn't you?—A. I have been to Mobile, Alabama. I don't know if it was on that particular day. If you say so, I presume you have checked the note.

Q. Do you recall going down there?—A. I recall flying to Mobile, Alabama.

Q. After the arraignment and before the trial?—A. It could have been before or after, either one. I don't know. Mr. Weiner, I can't remember these things by a specific date.

Q. When you went down there you said you and Mr. Edlin stayed at the Admiral Semmes Hotel in Mobile, Alabama, did you not?—A. Yes, we did.

Q. And that is the same place where Congressman Boykin has his office in Mobile, Alabama, isn't it?—A. Yes, it is.

Q. And you saw Congressman Boykin at that time?—A. He wasn't at the hotel at that time.

Q. But you and Mr. Edlin got in touch with him, didn't you?—A. Yes, sir.

Q. About the case, wasn't it?—A. No, sir.

Q. It was not?—A. No, sir.

Q. You left there on a Sunday, did you not?—A. We weren't there more than two days. I don't know whether it was a Sunday or Tuesday or Monday. You have got the exact dates. I am sure it can be established, but I can't tell you it was on a Sunday, no, sir.

Q. And didn't Congressman Boykin advise you that on the following Tuesday he called Mr. Miller from Mobile, Alabama, to discuss the impending trial?

[1263] Mr. WILLIAMS. Didn't he advise him when, sir?

By Mr. WEINER:

Q. Didn't he advise you shortly after he had done it; that he on the Tuesday after you had been down to Mobile, Alabama, had called Mr. Miller about the impending trial?—A. I understand there was such a call. I do not remember discussing that call with Mr. Boykin or him reporting to me that he made a call to Mr. Miller, no, sir. I understand the evidence is that he did so. Did you want the purpose of our trip to Mobile?

* * * * *

A. Mr. Weiner, I don't believe that was your question, or if that was my answer, I will retract to this degree: I am not satisfied that at no time—I wouldn't state here under oath that at no time during my conference with Mr. Boykin that I never made any mention of the case.

If, as you say, this was the day after arraignment, I would say it is very probable that during this conference I said something about, we were at the arraignment yesterday, or the day before, or whatever it was. This is presuming you are correct that this trip was immediately after the arraignment. That was not the purpose of the trip. It would not have been the subject matter of our conferences, but to say it wasn't even mentioned, I wouldn't go that far, sir.

Q. Now, on the very last paragraph of your statement to the FBI of January 27, 1962, there was this statement, was there not:

> I wish to state that at no time have I had any conferences with the Attorney General of the United States or Assistant Attorney General Herbert J. Miller in the presence of Congressman Johnson or Congressman Boykin, nor to my actual knowledge—

and the word "actual" is added in ink, is it not?—A. That is right.

[1264] Q. "* * * have Congressman Johnson or Congressman Boykin contacted the Attorney General or any members of his staff on behalf of Mr. Edlin."—A. Yes, sir.

Q. Now, can you tell us whether or not you were present when Mr. Meyer, at either end of the phone conversion, when Mr. Meyer had his first telephone conversion with Mr. Boykin?—A. I was not on the telephone. I was present in the room, yes, sir.

Q. And in which room were you? Where were you at the time?—A. At the time of that particular conversation, my best recollection is that we were in Congressman Boykin's inner office. He was sitting at his desk and I was sitting in the room.

Q. You were there?—A. Yes, sir.

Q. Mr. Edlin was there?—A. Yes, sir.

Q. Congressman Boykin was there?—A. Yes, sir.

Q. And Congressman Johnson was there?—A. That is correct, sir.

Q. Do you recall hearing Congressman Boykin talking to whoever was on the other end of that line?—A. I do remember that he talked on the line at one time, yes, sir.

Q. And after that call was finished did Congressman Boykin advise you that Mr. Meyer was coming down to Washington?—A. No, sir.

Q. He did not?—A. No, sir.

Q. Did he tell you that Mr. Meyer wasn't coming to Washington?—A. No, sir. I don't think it was known at that time whether he was or not.

Q. What did you hear Congressman Boykin saying to Mr. Meyer or whoever was on the other end of that telephone conversation?—A. Let we cover that meeting a little bit, and I will try if I can pin this down to a particular person. The call was initially placed by Mr. Edlin.

[1265] Q. Where was it initially placed?—A. From Congressman Boykin's office, charging the call at that time to his credit card. Mr. Meyer was not available, or at least they couldn't seem to be able to get him to the phone at that particular moment. The message was left for him to call back Congressman Boykin's office, which he did.

It is my best recollection that when that call from Chicago came in, it was first given to Mr. Edlin and my recollection

is he talked to Mr. Meyer for a few minutes, explained to him that there was a report in the Department of Justice that erroneously charged him with several convictions of a crime during a period of time when Mr. Meyer had had him under his supervision, or during a period of time when Mr. Meyer had made a lengthy and careful investigation of Mr. Edlin, and that he wanted it known that that wasn't true, and it was very important to him that that be known; that this was not a true statement.

He then stopped and listened a few minutes to Mr. Meyer. He said, "I have Congressman Boykin here, and I want you to tell him the same thing," and he handed Congressman Boykin the phone.

Congressman Boykin listened for a few minutes. He didn't speak immediately, I don't believe. He listened for a few minutes, and he had some sort of conversation, and I am not sure exactly what it was, and I am not going to be able to say that it was Mr. Boykin or Mr. Edlin; one of the two asked Mr. Meyer if he could come to Washington. It is my understanding that his answer was that he didn't know whether he could or not. I didn't hear the conversation.

Q. Before you go further, you say now that it was either Mr. Edlin or Congressman Boykin who asked if Mr. Meyer could come down?—A. That is correct. I do not know which one it was. They both talked on the phone. I know he was asked, and I am certain that he did not know whether he could come or not, because Mr. Edlin and [1266] I went to Chicago in order to get him to come to Washington and find out what would keep him from coming.

Q. So then right after this conversation you and Mr. Edlin together went to Chicago?—A. Yes, sir.

Q. You flew there?—A. Yes, sir.

Q. And when you got there you checked into a hotel?—A. Yes, sir.

Q. And from that hotel Mr. Edlin called Mr. Meyer.—A. I am not certain of that, sir. He was contacted. I am not certain whether we called or went to his office. I have seen Mr. Meyer approximately three times. I know on one occasion he was called from the hotel and on one occasion we went directly to his office, and I think the other time he was contacted by phone, and I can't remember which time was which.

Q. In any event, later that evening when Mr. Meyer was

already in the hotel room with Mr. Edlin you came into the hotel room, is that right?—A. If I wasn't there when he arrived, I certainly came in while he was there. I am not certain that he was with Mr. Edlin without me. He may have been.

Q. And you were all together?—A. Yes.

Q. And at that time when you were all together that evening a telephone call was either made to or was received from Congressman Johnson, isn't that true?—A. I think that is correct, yes.

Q. Now, was Congressman Johnson called or did Congressman Johnson call Mr. Edlin?—A. I am reasonably certain that if such a call were made that it was made to Mr. Johnson. I don't believe that he would have called. I am basing that on Mr. Meyer's testimony here in the courtroom. I do not remember the incident, but it wouldn't surprise me at all. I may very well.

I am certain that evening that the status was Mr. Meyer agreed he would go to Washington. I wouldn't be sur-[1267] prised if I called Congressman Johnson and told him so. I don't have any independent recollection of doing it. In view of Mr. Meyer's testimony I am sure I did, sir. I am sure he didn't call me.

Q. Do you remember putting Mr. Meyer on the phone so that he could talk with Congressman Johnson?—A. Mr. Weiner, I don't remember making the call. I am satisfied that I did, but I do not remember the incident, sir, and I certainly don't remember putting Mr. Meyer on the call, and I don't remember making it.

Q. Do you remember meeting Mr. Meyer when he came to Washington?—A. Yes, sir.

Q. Did you get the train ticket for him to come?—A. I believe I testified on direct, and it is my best recollection that it was charged to a personal credit card of Mr. Edlin's. He had a railroad credit card, and I believe it was purchased with that card.

Q. Did you purchase it?—A. I don't think so, but I am not sure. I doubt if I could have used that particular card. I am sure it was a personal card made out to Mr. Edlin, and I believe I was probably with him when he purchased it. That is another incident that I don't particularly remember. I have a recollection that that was charged to Mr. Edlin's credit card, but I don't remember having an actual memory of walking

into the railroad station and being there when that ticket was bought, but I do have it in my mind, a strong recollection that it was charged to his railway credit card.

Q. Then you picked him up at the train station when he arrived in Washington, and you took him over to Congressman Johnson's office?—A. Or Congressman Boykin's. I took him over, yes.

Q. Do you remember taking him to Congressman Johnson's office?—A. No, sir. I heard Mr. Meyer's testimony. I don't mean to dispute it. I don't remember whether I took him to Congressman Johnson's office or Congress-[1268]man Boykin's office, or whether I took him to both offices. We all met, of course.

Q. Do you remember meeting in the House Office Building with Congressman Johnson and Congressman Boykin and Mr. Meyer?—A. Yes, sir.

Q. And all four of you went off together in a cab over to the Department of Justice?—A. Yes, sir.

Q. Do you recall all four of you or the three of them going first to the Attorney General's Office?—A. No, sir, I do not. I think that Mr. Meyer was in error on that. I certainly have no recollection of it, and I believe I would remember that.

Q. Do you remember seeing the Congressmen going into Mr. Miller's office with Mr. Meyer?—A. No, sir. I don't believe that was my testimony.

The COURT. I think that was not his testimony. My recollection of his testimony was that the two of them went in, Mr. Boykin and Mr. Johnson, and saw Mr. Miller first for a moment or two, and then Mr. Meyer came in later.

By Mr. WEINER:

Q. Is that your recollection of the way it happened?—A. Yes, sir.

Q. So you saw the Congressman go in first?—A. Yes, sir.

Q. And then you saw them get Mr. Meyer?—A. I don't remember whether one of them came out or the secretary told him they wanted him. I know the two Congressmen went in and shortly thereafter Mr. Meyer went in.

Q. And then shortly thereafter Mr. Meyer came out and you took him to the office of Mr. Cassidy, where he was interviewed?—A. That is correct, sir.

Q. And then you met him when he was finished with Mr. Cassidy?—A. Yes, sir.

[1269] Q. Now, I believe you testified yesterday that Mr. Edlin and you met with Mr. Caudle, and there was a discussion about a review of the case, and that the only hope or possibility of dismissal Mr. Caudle told you would be an absolute, complete, unqualified disclosure to the Department of Justice of all of the defenses and of any and all evidence that there was to justify the defendant's position; was that your testimony yesterday—A. Yes, sir.

Q. And that Mr. Edlin said that these charges were being brought not to prosecute him but to destroy him?—A. That is correct, sir.

Q. And then you, Mr. Caudle and Mr. Edlin all went over to Congressman Johnson's office?—A. Yes, sir.

Q. And that Mr. Johnson, on page 4333, again asked Mr. Edlin if he was sure that under those circumstances he wanted to have his case reviewed, and that Mr. Edlin again insisted that he was never afraid to have this case reviewed by someone that was impartial?—A. That was my testimony, sir, and still is.

Q. Isn't it true, Mr. Robinson, that Mr. G. C. A. Anderson, the man who was representing Mr. Edlin in that particular criminal case, was not consulted or even informed that the Congressmen were going to go over to the Department of Justice and discuss this case or make any disclosures of what defenses there were in that case?—A. To the best of my knowledge that is absolutely correct. I certainly never informed him. Mr. Edlin never told him in my presence, and generally speaking, when Mr. Edlin talked with any of these lawyers I was with him. Actually I was collecting the evidence in the case, and at that particular time Mr. Edlin was treating me as his counsel in the case. I was not his counsel of record, but I was assisting with the case.

Q. Is it not also true that the chief defense lawyer in that case was Mr. Paul Berman, who had entered his appearance for First Colony Savings and Loan Association?—A. I think that might be so.

* * * * *

[1270] Q. And isn't it true that when these discussions were being held and this decision was being made for the Congressmen to go over to the Department of Justice and to discuss the case and reveal defenses, Mr. Berman was never told about it?—A. To the best of my knowledge, he was not, sir.

Q. And in all the times that Mr. Edlin told you to go over to Baltimore to discuss matters about the case and different points that would come up with respect to the case with the lawyers, he never told you to tell them that the Congressmen were over in the Department of Justice?—A. I am sure he did not. I know he did not, and I would not do so.

CROSS EXAMINATION

By Mr. WILLIAMS:

Q. Mr. Robinson, when you were interviewed on January 26, 1962, by Mr. Strickland and his co-agent from the FBI, were you asked questions and did you give answers? Is that the form of the interview?—A. Yes, sir, it was a question and answer interview.

Q. Did either agent write down what you said in response to the questions that were propounded to you?—A. Yes, one of the agents was taking extensive notes. I don't know whether he took it down verbatim or not. I am not sure he was that good, but he was taking notes.

Q. Is it your testimony that they thereafter left and returned with a statement in narrative form?—A. Yes, sir.

Q. And that is the statement which you were shown here in this courtroom this afternoon?—A. I don't believe I have ever been shown it actually. I have what appears to be a complete copy of it. I am sure that is correct.

Q. I take it there is no dispute that they are the same?—A. I am sure they are, sir.

[1271] Q. What was the question, Mr. Robinson, that elicited from you the response that you had no actual knowledge of visits made to the Department of Justice?—A. The agents had been very particular throughout this interview, with a few exceptions, to ask me to maintain my testimony or statements in answer to them to those things that I personally saw and heard.

There were one or two times when they asked me, when I told them I had no knowledge of some items, when they asked me if I had any understanding or I had heard anything, in which case it is in here.

When we reached this area I particularly asked them. They represented that they were aware of the visits; that they already had knowledge of them. They wanted to know what I knew about them.

I said, "By that do you mean you want to know what I saw and heard? Or do you wish to know what I understand what I was told?"

He said, "We are only interested in what you witnessed. We don't want any hearsay in that regard." So I gave the answers, or at least he took the answer down as my having no knowledge. When it came back, I made him change that to actual knowledge.

Q. Actual knowledge of what?—A. Of these visits. In other words, I was not present during any of the visits. I didn't hear Congressman Boykin say something to the Attorney General or to Mr. Miller, and I didn't hear Mr. Johnson say something to the Attorney General or Mr. Miller. All I knew about it was what they told me at later dates, and the agents were very specific. They did not want from me in that area any hearsay, and that is why when they came back the correction made there was discussed with them, and we both agreed that to make this clearer we had better put the words "actual knowledge" in. It was meant to represent that I didn't personally witness their conversations or overhear their conversations with the Attorney General or with Mr. Miller.

[1272] Q. Mr. Robinson, on one occasion at least you went to the building which houses the Department of Justice with Mr. Boykin and Mr. Johnson, did you not?—A. Yes, sir, I did.

Q. Did you participate in any meeting with them on that occasion?—A. No, sir.

Q. Did you remain outside?—A. Yes, sir.

Q. Outside of the meeting or outside of the building?—A. Oh, outside of the meeting, sir.

* * * * *

Thereupon FRANK W. BOYKIN, a defendant, having been previously sworn, resumed his testimony as follows:

* * * * *

CROSS EXAMINATION (continued)

By Mr. TYDINGS:

* * * * *

Q. Now, Congressman, more than a month prior to your final settlement on April 29 on March 25, 1961, was the first time you went to the Attorney General, concerning Mr. Edlin, was it not?—A. Yes, it was March 25. Mr. Tydings, there

is no novelty for me to go to see the Attorney General. I have been doing it for 28 years and every other department of the Government.

Q. All right. Is it your recollection, Congressman, that sometime in the last of February——A. February when?

Q. 1961. That you called Congressman Johnson and told him that Lykes Boykin had contacted you and had informed you that there was a pending indictment against First Colony Savings and Loan Association and Mr. Edlin [1273] and certain other parties involving a mail fraud. Do you recall making such a call to Congressman Johnson?—A. I had my attorney Lykes Boykin to get a report on Mr. Edlin.

He called me and gave me the report. And I called Congressman Johnson and told him about it and asked him to come to my office and get Mr. Edlin and Mr. Robinson to come, too.

Q. And you told him that Mr. Lykes Boykin had advised you of a pending mail fraud indictment against Mr. Edlin and the First Colony Savings and Loan Association and other parties in Maryland?—A. I don't remember whether it was the indictment or whatever it was but he told me, what I have already told you and I phoned it to my friend Tom Johnson and asked him to get him up there quick and let us talk to him.

Mr. Edlin and Mr. Robinson, which he did. Mr. Johnson brought them up.

Q. Now, after you called Congressman Johnson, did you have a discussion with Congressman Johnson and in the discussion you were both concerned that such an indictment could have a great impact on the development because negotiations were under way with First Colony and First Continental for a very substantial loan and your concern was whether or not the indictment could interfere with the granting of the loan for the development of the property?—A. Of course we were.

Q. And that was, Congressman, some time in the last part of February, 1961?—A. I do not remember when it was. It happened. He called and gave me the report and I got these people up to explain it which they did, and then we worked on it from there.

Q. All right. Now, Congressman when you went in to see the Attorney General on March 25, 1961, why did you feel it necessary to discuss the land development in Charles County and to show him charts of the develop-[1274]ment of Wal-

dorf?—A. Because I thought that he certainly would be interested in this proposition which was so wonderful and I told him that I believe, if this went through, if this was a bad indictment, to review it.

I told him what it meant. I showed him the maps and plans and plats and pictures of Boykin City. I showed him that he had agreed to spend $2,300,000 on the property and it is a pretty good amount, at Brooke and I was talking to my friend. I was talking to a man that I had known his family forever and I just asked him to look into that indictment, and if it was faulty, then we would not have another thing to say.

Q. When you say you wanted to show him what it meant. You meant the fact that, if the indictment went forward, that the First Colony Savings and Loan Association might not—— A. That the First Colony was what?

Q. That the First Colony Savings and Loan Association might not be able to put up the money to develop the property, is that right?—A. Why, of course that is right. They would not have been either, because it ruined them as it did——

Q. You, in effect, were asking the Attorney General to take into consideration factors other than the merits of the case, itself, were you not?—A. No. I just asked him to review the indictment and I told him about the proposition. I was doing more for the Attorney General than he was doing for me. He had already asked me to get all this information for him, which I was doing, on the Dranow note.

Q. Now, Congressman, yesterday on direct examination you testified, did you not, in response to Mr. Williams' question: "And what was said to the Attorney General?"

This is page 5149, Mr. Williams, at the top of the page, and the answer:

> Well, he came out in the hall to meet me and Mr. Robinson was with us, also, with Congressman John-[1275]son and me, and we spoke, and I introduced him to Mr. Johnson and told him that he represented the properties, the Edlin group, and then I

and you went into some matters about the family.

A. That is what I told the Attorney General.

Q. And Congressman Johnson's representation of these properties in the Edlin Group was one of the reasons for his visit to the Attorney General, was it not?—A. He went down to tell him why he thought the indictment was faulty and the At-

torney General, after he had explained it, asked him to give him a memo on it.

Q. If that was not why, why did you feel it necessary to tell the Attorney General that Mr. Johnson was there representing the property-holders and the people there and the bankers and all the people that were going to furnish the money?—A. He was representing them down there on the land deals and he come down to explain the indictment there.

Q. Well, I think we may be at cross purposes.—A. I do not think we are. I just wanted to give him all of the facts.

* * * * *

Mr. TYDINGS. Yes. My question to you, Congressman Boykin, is, why was it necessary to tell the Attorney General that "Congressman Johnson represented these property-holders and people there, the bankers and all of the people that were going to furnish the money, and he knew all about the proposition," if it was not a part of his responsibility as a representative of the propertyholders and the Edlin group?

The WITNESS. Mr. Johnson had never met the Attorney General and I told him that he represented the savings and loans and the bankers and all of the people that Mr. Edlin was representing to furnish the money for this development. I also had told the Attorney General every single ounce that I knew about. I told him we owned [1276] a mortgage of $5,900,000 and I just gave the Attorney General all of the facts. I held back nothing. That is the reason I told him because that is the way I understood it was.

* * * * *

Q. Congressman, I ask you again, did you not tell the Federal Grand Jury, testimony as follows, on page 48:

> Q. What was said to the Attorney General about the case that was pending in Maryland, the indictment against Edlin and First Colony?—A. I don't know. Tom talked on that. I don't know what was said. He was there when I wasn't there sometimes, don't you see?

A. That is right.

Q. [Reading.]

> Q. What did Congressman Johnson hope to accomplish by talking about the case?—A. I don't know. He was representing him. He is a lawyer and he was representing his clients.

Now, do you recall saying that?—A. Yes.

Q. And is that the fact?—A. Yes, it is the fact and I told the Attorney General he was there representing the people. We withheld nothing.

Q. One other thing, the first time that either you or Congressman Johnson, according to your testimony, learned about the Edlin indictment was when you received that telephone call from Lykes Boykin sometime in the late part of February or the early part of March, 1961 or about a month before you and Congressman Johnson went to see the Attorney General?—A. No, I did not know about the indictment when I went to see the Attorney General. I had only told the Attorney General about the Dranow note. I do not know when Lykes Boykin gave me the information but the minute he did, I went and got these people and that was the first day I ever heard of it in my life that I had a report made.

[1277] Q. I see.

I think you and I agree. I think you misunderstood my question. I did not phrase it properly. You did not know about the indictment, neither you nor Tom Johnson until you received a telephone call from Lykes Boykin shortly before or about thirty days before you and Congressman Johnson went to see the Attorney General on March 25?—A. Oh, no. We went to see the Attorney General after I found it out and asked him if we could get him—if he would review it. I have done that many times, to the Attorney General in the past years, many times.

Q. Right.—A. I will be glad to give you some instances.

Q. You knew that Congressman Johnson was not representing Mr. Edlin in his criminal case, did you not?—A. No, sir, I did not know anything about the criminal case. This was the first time I had ever heard of it in my life and I sent for him to ask him to tell me about it.

Mr. Edlin had told me nothing about that.

Q. Well, now, when Congressman Johnson went to see the Attorney General, did you think he was representing Mr. Edlin as his lawyer in a criminal case?—A. I think he went to ask him to review it. He was representing everyone in the case. He was doing the land business.

Q. But he was not counsel of record over in Maryland in the criminal case?—A. I have no idea.

* * * * *

Q. Now, Congressman, you testified that in some of your visits to the Attorney General and to Mr. Miller, you were concerned about providing information relating to Mr. James Hoffa, Mr. Dranow, or a stolen treasury note.—A. I was not concerned. I promised the Attorney General—he asked me to get the information for him, and he sent one of his men up to get it and I called Congressman Johnson and asked him if he could get that information for me from Mr. Edlin and Mr. Robinson. He said he would be glad to. Then I talked to Mr. Edlin and [1278] Mr. Robinson and they promised to get it for me but they would put me off and I was two weeks getting the information and I told you what Mr. Edlin said, he did not want Mr. Hoffa and Bobby Kennedy both against him.

Q. All your information on Mr. Hoffa came from Mr. Edlin and Mr. Robinson, did it not, in this matter?—A. It was the Dranow note. It was not Mr. Hoffa. It said Mr. Hoffa approved the deal, told him to go ahead with it, and he was a partner of Mr. Dranow. I did not know either one of them.

Q. All your information in this matter, Congressman, came from Mr. Edlin and Mr. Robinson, did it not?—A. Oh, yes, and that is what I told the Attorney General.

Q. Now, Congressman, you knew, did you not, that during the spring and the summer and the fall of 1961, during the time that these contracts and the visits were made with the Attorney General and the Assistant Attorney General, that Mr. Edlin was trying to swap off his criminal case here in Maryland in return for providing alleged information about Hoffa, Dranow or the stolen treasury note?—A. I did not know it. Mr. Edlin asked me to get his case reviewed.

* * * * *

Q. Let me read for you again, Congressman, before we were interrupted. Page 49, the Federal Grand Jury testimony:

> Q. What did Mr. Edlin and Mr. Robinson hope would be accomplished by the Attorney General and the Department of Justice taking the case under advisement and studying it?—A. They were trying to swap off on Hoffa for that deal. I don't know, but neither one of them talked to Bobby, to Bobby Kennedy.

* * * * *

[1279] Q. [Reading.]

Isn't that true that what Mr. Edlin and Mr. Robinson hoped would be accomplished by the Attorney General?

* * * * *

Q. Just a moment, Congressman.

Now, is it not a fact that that is what Mr. Edlin and Mr. Robinson hoped would be accomplished by these visits to the Department of Justice?—A. No, they hoped that if they found the indictment was not good—Edlin told me that all he wanted was a review. I told you this before and that is all he wanted and that is all Congressman Johnson and I ever asked the Attorney General. They were asking us to do things, ten times more than we were doing for them.

More of these trips were to help them and get these men to go before the Attorney General. They must have had confidence in them. They wanted them to go to the Federal Court and swear against them on this deal, which they did do. They went three times.

Q. You deny then——A. Yes.

* * * * *

Q. And at these meetings, Congressman Boykin, you would do your best to explain to Mr. Robinson and to Mr. Edlin what a good job Congressman Johnson had done in presenting the Edlin case to the Attorney General or the Assistant Attorney General, would you not?—A. I am not an attorney, as you know. Mr. Johnson was doing that law part. The only thing I talked to him about was trying to get him to go down and go before the Grand Jury, for them not for me. I had nothing to do with the thing, and I told him that Tom had done a fine job, and I thought he had.

He explained this indictment, which I never saw. I never saw the memorandum or anything else, and I do [1280] think Tom Johnson did a good job on this land. He had a bunch of abstracts up to his breast there in his office. I went down one night at ten o'clock, and he was working on them.

Q. Let me ask you one final question. The reason you wanted to tell Mr. Edlin and Mr. Robinson that Johnson had done a good job in explaining the land to the Attorney General and the Assistant Attorney General was to try and get him a little

more money for his efforts for all the work he was doing, isn't that so?—A. On the land. I was hoping he would, because he was complaining about it.

Q. And that work included the efforts he was making in explaining the land situation to the Attorney General?—A. I did not say that.

[1281] In the United States District Court for the District of Maryland

ORAL ARGUMENT ON BEHALF OF THE GOVERNMENT

By Mr. MARION:

Mr. MARION. May it please the Court, Mr. Foreman, and Ladies and Gentlemen of the Jury: As we stand here today in the sunset of the trial in the eleventh week of the trial, we have finally reached the point where all of the testimony and the evidence in the case has been completed. At this time I wish to thank each and every one of you for your patience. I know I speak for all of counsel in this case when I tell you that we appreciate your interest and your attention throughout all eleven weeks of this trial.

At this time I will give the closing argument on behalf of the United States. After I have concluded, each of the defense counsel for each of the defendants will have an opportunity to address you, and then Mr. Tydings will have an opportunity thereafter to make any closing comments which he desires.

At the conclusion of those arguments Judge Thomsen will charge you as to the law. His instructions as to the law which are applicable to this case, he will tell you, are binding upon the jury. The Jury, however, must determine the facts in this case. And then at the conclusion of the Judge's charge, you will retire to deliberate and you will arrive at a verdict in accordance with the law as stated by Judge Thomsen and in accordance with the facts as you, the jury, find them.

When you do retire, we ask that you bring in a verdict which will insure that justice is done.

As Judge Thomsen indicated just a moment ago, it is for the jury to determine the credibility of all of the witnesses who have testified in this trial. And I feel sure he will instruct you further upon this matter in his charge.

Now, Members of the Jury, just as in the case of the open-

ing statements by counsel, the closing arguments in this case are not evidence. The evidence and all of the [1282] evidence in this case you heard from the witness stand from the various witnesses who appeared and testified here and from the documents and other exhibits which were introduced into evidence. The closing arguments are merely counsel's impressions which are given to the jury to aid the jury, if possible, in their assessment and evaluation of the facts in the case. And I wish to tell you this—if your recollection of the facts in this case is contrary to my recollection as I proceed in my argument or if your recollection is different from that of any other counsel in his argument to you, you may disregard entirely what is said about the facts and rely upon your own recollection of what the facts in this case are because, as I have indicated, you are the sole judges of the facts.

Now, back on April 1 of 1963, over two months ago, Mr. Tydings, in his opening statement, outlined to you the Government's case. We submit to you that we have proved that case beyond any doubt and that we have met what the defendants have offered by way of defense.

In the course of my closing argument I will address myself first to the speech which was given by Congressman Johnson on June 30, 1960. I will then discuss with you some of Congressman Johnson's claims here at this trial of certain legal work which was allegedly performed by him. I will then talk to you about Congressman Boykin's entry into this conspiracy and, finally, about the visits and contacts which were made by these Congressmen with the Department of Justice.

The Government submits, Ladies and Gentlemen of the Jury, that the conspiracy charged in this case had its inception in Miami, Florida on or about April 1 of 1960 and that Mr. Edlin and Mr. Robinson were the first two conspirators who joined themselves together to further the illegal purposes of this conspiracy. It began when Martin Heflin, a paid public relations man, flew to Miami on that day to meet with Mr. Edlin and Mr. Robinson to discuss the reactivation of the so-called "Institute of Independent Savings and Loan Associations."

[1283] Now, this Institute was designed to provide publicity which would be particularly beneficial to the First Colony Savings and Loan Association and the First Continental Savings and Loan Association, both controlled absolutely by J. Kenneth Edlin.

It also envisioned at that time a speech which would also serve as publicity, a speech to be given on the floor of the House of Congress by a member of the United States Congress.

By the first of May of 1960 Mr. Edlin's First Continental Savings and Loan Association was about to open its main office in Chevy Chase, Maryland. Mr. Edlin by this time and Mr. Robinson, his right-hand man, had gotten to know Congressman Johnson through their dealings with an Assateague Island Bridge project in which they had been negotiating against one another with regard to a proposed loan.

It was at the same time, approximately the first of May, Ladies and Gentlemen, that Mr. Heflin and Mr. Robinson met in a hotel room in Washington, D.C. to begin work on a preliminary draft of a speech which would later be delivered on the floor of the House of Congress. At that time the speech was dictated in rough form by Mr. Robinson and you will recall that two days later on May 3, 1960, Mr. Robinson wrote to Mr. Martin Heflin in Washington.

I am sure you remember Government exhibit No. 54, Members of the Jury. Mr. Robinson addressed this letter on May 3, 1960 to Mr. Heflin:

> DEAR MARTIN: I enclose herewith copy of the preliminary speech draft which you patiently listened to in my room. No corrections have been made. I leave that in your most able hands.
>
> Highest regards to you and your lovely wife.
>
> Very truly yours,
>
> W. L. ROBINSON.

[1284] You will recall, also, Members of the Jury, the draft of the speech which was attached with that letter, a speech which was prepared for delivery by a Congressman of the United States on the subject of Independent Savings and Loan Associations, designed to be beneficial to independent savings and loan associations, and particularly those controlled by Mr. Edlin.

You will recall that Mr. Heflin, when he edited this draft, went through and inserted at appropriate spots the two words, "Mr. Speaker," which indicated quite clearly that this was to be given by a member of the United States House of Representatives.

You will recall, also, from the testimony, Members of the Jury, that Mr. Heflin stated that several later drafts of this

speech were submitted to him after their preparation by Mr. Robinson and they were given to Mr. Heflin in order that he might edit them and revise them to make them suitable from a public relations standpoint to the point of view which Mr. Edlin and Mr. Robinson wished to get across.

Thereafter, in the month of May, 1960, a luncheon was held at the Congressional Hotel in Washington, D.C. In attendance at that luncheon you will recall were Mr. Edlin, Mr. Heflin, Mr. Rains, and Congressman Johnson.

I believe that the testimony has indicated that a Mr. Marshall Diggs was also present for a portion of that meeting and, at this time, according to the testimony, Mr. Heflin and Mr. Edlin went over with Congressman Johnson the proposed subject matter of the speech which they envisioned that he would make in the House of Representatives.

I think you will recall the uncontradicted testimony of Mr. Jackson Rains. I think you will recall that Mr. Rains was the accountant for the two savings and loan associations. He was also the very first witness whom the Government called to testify in this case.

As to the meeting, he testified as follows, Members of [1285] the Jury. He was being questioned by Mr. Weiner at the time.

> What, if anything took place when you got to Congressman Johnson's office?
>
> A. We went to lunch at the Congressional Hotel.
>
> Q. Who was with you, did you say?
>
> A. Mr. Edlin, Mr. Heflin, Congressman Johnson and myself.
>
> Q. Now, what, if anything, took place at this lunch that you have mentioned?
>
> A. All during the lunch Mr. Heflin was describing to Congressman Johnson the plight of the Maryland Independent Savings and Loans and citing the example of the financial condition of the Federal Savings and Loan Insurance Corporation which in effect, showed that its assets were less than one per cent of its insured liability and, therefore, the independents who might have mortgage insurance, would be a better investment than a Federal Savings and Loan, and also that some Federals have been advertising that their deposits were guaranteed by the United States Government when, in reality, they were not.

Q. What, if anything, did Mr. Edlin do during this lunch?

A. He would make a brief comment which would point out a point to Mr. Heflin to discourse on.

Q. What, if anything, did Congressman Johnson do?

A. He listened very attentively. In my opinion, he was hearing the information for the first time. And he asked intelligent questions.

Q. Now, can you tell us whether or not anyone—well, what happened at the end of the lunch?

A. It was agreed that Mr. Heflin would send Congressman Johnson a synopsis of what they had discussed.

[1286] This was a meeting, Members of the Jury, which you will recall was testified to not only by Mr. Rains, but by Mr. Heflin who was present. It was also testified to by Mr. Diggs who was present for a portion of that meeting.

This is also the meeting that Congressman Johnson told you on the stand he had no recollection of.

Later, Mr. Heflin went to see Congressman Johnson, himself, in his office and he was referred to Mr. Manuel Buarque. You will remember Mr. Buarque. He was the administrative assistant for Congressman Johnson who normally wrote Congressman Johnson's speeches.

Sometime thereafter, Members of the Jury, toward the end of the month of May, 1960, there appeared in the Washington Star newspaper an article which Mr. Heflin saw and showed to Mr. Edlin and to Mr. Robinson, and when they saw that article, the drafters of Congressman Johnson's speech had what Heflin had told them they needed, Members of the Jury, an ostensible reason for making a speech which they planned to make anyway.

I refer you particularly to the testimony of Mr. Heflin on this subject. Mr. Heflin, you will recall, was the short public relations man. I think he told you he was the brother of Mr. Van Heflin, the Movie Star. His testimony on this point, Members of the Jury, was as follows:

Q. What, if anything, was your complaint to Mr. Robinson and Mr. Edlin about it?

A. There was no timeliness in it. There was no reason to make the speech. This material merely rehashed and recited these various abuses alleged or otherwise and it was not the sort of thing that I felt anyone could be justi-

fied in making a speech about. There just was not a speech there. Nothing to hang your hat on.

Q. Nothing to hang your hat on? Did there subsequently come to your attention anything which you felt might be something to hang your hat on?

[1287] A. Yes, that was some weeks later when this newspaper story in the Washington Star came out.

Then, Members of the Jury, as a result of the understanding that has been reached at the luncheon at the Congressional Hotel which was quoted earlier from Mr. Rains' testimony that the thoughts which had been presented to Congressman Johnson at that meeting would be put in writing. Mr. Heflin and Mr. Robinson took a draft of the speech to Congressman Johnson in his office.

Mr. Heflin also testified to this matter and his testimony was as follows—he was being questioned by me at that time.

Q. After you discovered that article and brought it to the attention of Mr. Edlin and Mr. Robinson, can you state whether or not you had any occasion to meet Congressman Johnson again?

A. It was some time after that.

Q. You did meet him for the second time?

A. Yes.

Q. Where did you meet him on that occasion?

A. In his office. I met there with Mr. Robinson.

Q. Were you and Mr. Robinson alone when you went to his office on that occasion?

A. Yes, just he and I.

Q. What, if anything, did Mr. Robinson have with him then?

A. He had a draft of his article, of course, that had been published for some time, I do not know how long.

Q. He had a draft?

A. Yes, a draft of a speech.

Q. And he had a copy or copies of this article?

A. Yes.

[1288] Now, when I say "copies of the speech," it was material, you understand. Material for a speech along with this. And that was shown to Mr. Johnson.

Thereafter, Members of the Jury, Mr. Heflin continued to work on the speech most directly with Mr. Buarque and I think

you will recall in this regard the testimony of one of Congressman Johnson's former secretaries in his Congressional Office, Mrs. Frances Kiernan, who testified as to the work done by Mr. Heflin and Mr. Buarque on this speech. She was testifying on redirect examination by Mr. Burnett and testified as follows, beginning on page 1056 of the transcript.

> Q. Mrs. Kiernan, on cross-examination, Mr. Doub asked you what was your understanding as to who wrote the speech, and you answered "Mr. Heflin and Mr. Buarque."
>
> A. Yes, sir.
>
> Q. What was your understanding of the role that Mr. Heflin played in writing the speech?
>
> A. I do not have firsthand information on who wrote the speech. However, at the time of the speech, Mr. Buarque said to me, "Mr. Heflin is working on the speech and I am going to work on it with him."
>
> Q. Did Mr. Heflin ever bring a draft or copy of any speech to Congressman Johnson's office?
>
> A. There was a draft of the speech that came to the office.
>
> Mr. Heflin came in; to the best of my recollection he brought it.
>
> Q. What did Mr. Buarque do with this draft after he got it?
>
> A. I understood he was going to go through it and edit it. I mean, it was his custom to. Of course, he wrote the majority of his speeches because the Congressman did not have time to do it. It is my understanding he went through and made whatever changes he desired.

[1289] Now, in addition to the initial draft, Members of the Jury, Mr. Heflin furnished facts and figures and ideas to Mr. Buarque which found their way into the speech. Further, he planned with Mr. Buarque the proposed caption for the reprints which were to be ordered after the speech had been delivered.

Then, during the month of June 1960 when Mr. Edlin and Mr. Robinson had successfully made their arrangements with Congressman Johnson and knew that Congressman Johnson was going to deliver the speech they wanted, Congressman Johnson officially went on the payroll of the Edlin organiza-

tion and I am sure that you will remember the testimony of Mrs. Sadie Goldman as to this particular point. She was being questioned by Mr. Tydings:

> Mrs. Goldman, directing your attention to the period after you returned to Miami from Bethesda or Chevy Chase in May of 1960, do you recall any unusual incident involving Mr. Edlin in your duties as his secretary?
>
> A. Yes, there was one very unusual instance. He came in one morning and he was really very excited and very happy and we went through the usual routine of my going in with my book and he was sorting the mail, and he said, "Well, I have made a new"—and then there was an interruption. And her testimony continued on page 423.
>
> This was about the first week of June of 1960 when Mr. Edlin—this was a very unusual incident. Mr. Edlin came in very happy, sorted the mail and had a running commentary as usual about various things and then he said out of the clear sky, "Well, I have made a new contact. There is no stopping us now. The sky is the limit. We will have a chain of banks, Sadie. We are going to be rich."
>
> I looked up at him and he says, "Seriously, Sadie, it is a Congressman." And that was all.
>
> Well, I walked out of his room and Mr. Robinson was sitting in the outer office. There was no one else around and I said to Mr. Robinson, we were friendly, and I said, [1290] "Gee, what is he all hopped up about? He is acting like he realized his life's ambition."
>
> Mr. Robinson said, "Better than that." Did you ever—Well, he said, "Did you ever hear of Congressman Johnson?" I said, "No, I never did." He said, "You will hear plenty about him now. He is on our pay roll. It is costing Ken plenty."
>
> So, I interrupted. I says, "It never costs Ken anything. It always costs the firm."
>
> So, Mr. Robinson said, he was laughing and he said, "Well, there are no holds barred now. The sky really is the limit, Sadie," and with that he walked—and he had a cup of coffee in his hand and he walked to Mr. Edlin's private office.

Members of the Jury, by this time the Government submits to you that Mr. Edlin and Mr. Robinson, his right-hand man had bought their first Congressman. And a check was issued. Members of the Jury, on June 20, 1960, from Mr. Robinson to Congressman Johnson in the $500.00.

Now, I ask you to ask yourselves, members of the jury, whether it was mere coincidence that this check was issued just ten days before Congressman Johnson delivered the speech in the House of Representatives?

This was merely the first, Members of the Jury, of a series of payments which were made to Congressman Johnson or for his benefit. The reimbursement for that check was charged on the books of the Savings and Loan Association as "legal", even though it purported to be a campaign contribution.

This, Members of the Jury, marked the beginning of a pattern of payments all charged and reimbursed by the Savings and Loan Association to the land companies as though they were legal expenses to William L. Robinson.

And, Members of the Jury, the Government submits that the defense has never answered the question of why Mr. [1291] Robinson made a large campaign contribution to Congressman Johnson if their only contact then involved the Assateague Island Bridge matter, as lawyers representing adverse interests negotiating against one another with regard to a proposed loan.

Now, at the same time, Members of the Jury, Mr. Edlin and Mr. Robinson considered another even subtler form of payoff to Congressman Johnson for the speech. They arranged for Mr. Passman, a Chicago Attorney, who represented the St. Lawrence Insurance Company, to meet with Congressman Johnson on the very day that Congressman Johnson was to deliver that speech in Congress in order that Congressman Johnson might consider representing that insurance company in the State of Maryland. And, at that time, Members of the Jury, there were only two savings and loan associations in the State of Maryland which were then insured by the St. Lawrence Insurance Company and those two associations were the associations of Mr. J. Kenneth Edlin, the First Colony Savings and Loan Association and the First Continental Savings and Loan Association.

The following day, Mr. Passman wrote a letter to Congressman Johnson referring to his meeting in Congressman John-

son's office on June 30, 1960 and in the final paragraph Mr. Passman says:

> I regret that in addition to your press of business my time was too limited to permit the acceptance of your kind offer to see firsthand the working of the wheels of Government.

I ask the jury to consider whether or not the working of the wheels of government referred to in that letter was not, in fact, an invitation by Congressman Johnson to Mr. Passman to come over to the House of Representatives and hear him take the floor of the House of Representatives as a champion for J. Kenneth Edlin and give the speech which he did deliver that afternoon on June 30, 1960?

At the same time, Members of the Jury, you will [1292] recall the testimony of Mr. Rains at the time when Mr. Edlin showed him a carbon copy of the very speech delivered by Congressman Johnson—reading from page 166 of the transcript and this is Mr. Weiner's questioning of Mr. Jackson Rains, the accountant:

> Q. Now, can you tell us whether or not there came a time when you became aware of a speech by Congressman Johnson?
>
> A. Yes, sir.
>
> Q. Can you tell us whether or not you had occasion to speak with Mr. Edlin about it?
>
> A. Mr. Edlin showed me a typewritten carbon copy of a speech.
>
> Q. Now, before you go on, can you tell us where this took place?
>
> A. This took place on the premises of First Continental Savings and Loan Association in the stationery room which was more or less a private office.
>
> Q. Private office of whom?
>
> A. Mr. Edlin used it as a private office when he wanted to discuss something in privacy.
>
> Q. Can you tell us when this conversation took place?
>
> A. This was either immediately before or immediately after the speech. I am not sure which.
>
> Q. Now, tell us what took place at that time, please?
>
> A. Well, naturally, Mr. Edlin was always concerned that I was under indictment and he frequently pledged

to me that the indictment would never go to trial, that I would be out from under it.

And then there was an interruption and picking up the testimony on page 172:

Q. Tell us what was said during that conversation in the store room?

[1293] A. What was said in substance is Mr. Edlin was saying to me, "You see, we have friends on the Hill, we have nothing to fear on our indictment. These people are interested in us and the injustice we have been done."

Q. Did Mr. Edlin show you this carbon of this speech?

A. Yes.

Q. Did you read it?

A. I glanced over it hurriedly.

Q. Can you tell us how that compared, if at all, with the conversation which had taken place in the Congressional Hotel?

A. The pertinent points were there.

And thereafter, Members of the Jury, Mr. Edlin took a jubilant plane ride to Miami and several members of his staff and you will recall that Mr. Rains' testimony about that incident on the July 4th weekend of 1960 was so clear that not even Mr. Robinson—when he took the stand—could deny the incident.

Now, Mr. Robinson would have you believe it was all a big joke. What hollow laughter, Members of the Jury, that now seems—laughing over who would take the credit for the speech; whether it would be Mr. Edlin, who paid for it or Mr. Robinson, who had written it.

In addition to the speech, itself, Mr. Edlin was concerned with reprints of this speech. They were critical for his interests at that time. These reprints you recall were being discussed at the very time the speech was in draft form before it had been delivered. The heading or caption to be used on the reprints was suggested to Mr. Buarque by Mr. Heflin and 50,000 copies—reprints of that speech—were ordered by Mr. Edlin and his interests in July and August of 1960.

No one else ordered any reprints of that speech—only Mr. Edlin. 50,000 copies.

[1294] According to his testimony, Congressman Johnson promptly forgot about the speech. He had served his purpose, Members of the Jury, by making this speech and by allowing his Congressional office to be used for ordering the reprints but Mr. Edlin, of course, did not forget about the speech. He took, his 50,000 reprints, he marked them in red ink and he used them in deposit solicitation. They were used to induce prospective savers to put their money into First Continental Savings and Loan Association which had just opened its doors and they did it by suggesting to those prospective savers that First Continental's type of operation had been given Congressional sanction and you recall the testimony of Mr. Kunkel, the tall, thin man who was the executive vice president of the First Continental Savings and Loan Association.

And the testimony of Mr. Bradford Wyckoff, the former advertising manager for Mr. Edlin's companies. You will recall their testimony as to the use to which they put these reprints. You will recall I think also Government Exhibit No. 49 which Mr. Kunkel identified, the form letter which was used to answer questions which came to the savings and loan association, a form letter which indicated that they were enclosing a copy of Congressman Johnson's speech as verification of certain facts. And you will recall that attached to this draft is a copy of the reprint, itself.

Members of the Jury, you can see for yourselves, staring you big and bold at the top of that reprint the great seal of the United States and the emblazoned words "Congressional Record."

Members of the Jury, the defense has suggested two reasons for Congressman Johnson's making this speech. First, alleged outrage at the Washington Star article of May 27, and secondly, its use as a campaign issue. But, members of the jury, the speech had already been considered. It had already been discussed prior to May 27, of 1960. The speech was already in draft form prior to May 27 of 1960. The May 27th article was merely something which they could hang their hats on.

[1295] Now, in so far as the claim is made that it was to be used as a campaign issue, let me remind you that Congressman Johnson himself admits on the stand that no constitutent ever requested such a speech. He admits that no constituent ever discussed such a speech with him.

There is no evidence that Congressman Johnson discussed this speech with anyone but Mr. Buarque, Mr. Heflin, Mr. Edlin and Mr. Robinson. Congressman Johnson admits that no constituent ever complained of the May 27th article in The Washington Star. And that is not surprising since the article was buried on the 8th page of Section D of the Washington Star. No publicity ever emanated from Congressman Johnson's office about that speech. He never mentioned that speech in his weekly Newsletter to his constituents, his basic source of communication with his constituents and it was never mentioned in any newsletter.

Nor did Congressman Johnson ever order any reprints for himself to use in any campaign and he told you, Members of the Jury, that shortly after the speech had been delivered, he told a group of several people who came to his office that, so far as he was concerned, the matter was closed. He said he had no further interest in the subject matter and he gave no further speeches on that particular subject.

I submit to you members of the jury, there is no other logical explanation you can make but that that speech was made solely for the purposes of Mr. Kenneth Edlin. It was a day's work for a day's pay for the man to whom he was selling his Congressional Office and his Congressional influence.

Congressman Johnson has claimed on the stand in this case that he did not then know that the First Colony Savings and Loan Association was then under indictment.

Now, you will recall the language in the speech, itself, that out of 400 independent savings and loan associations [1296] in Maryland, exactly three of them have been indicted and none convicted.

Personally, I do not know any of these indicted institutions nor any of the circumstances leading to their respective indictments. I hold no brief for any of them one way or the other.

Congressman Johnson claimed under oath, Members of the Jury, that he did not even bother to check the facts to ascertain whether he could truthfully make such a statement in his speech.

If so, I submit to you, it was utterly and completely irresponsible and reprehensible, but the Government submits that that is not so and that that was not a fact. The Government submits that Congressman Johnson did know at that time that both First Colony and Mr. Edlin were then under indictment

in this very Court and that he, nevertheless made those statements in the speech which he delivered on June 30, 1960.

Those statements, Members of the Jury, the Government submits were completely untrue and deceitful.

You will recall that Congressman Johnson had just received ten days before the speech, a $500 check from Mr. Robinson. Mr. Robinson was a representative of one such indicted institution. He was reimbursed, Members of the Jury, for his check to Congressman Johnson, by a check of the First Colony Savings and Loan Association, one such indicted institution.

Furthermore, it is clear from Mr. Buarque's testimony that he knew the institutions which were then under indictment and he knew one of them was the First Colony Savings and Loan Association.

The Government asks whether Mr. Buarque was a totally credible witness for the defense or whether he was less than truthful when these admissions were finally gained from him on cross examination.

[1297] Mr. Weiner was questioning Mr. Buarque at the time.

Q. Now, in the speech you say you make no reference to First Colony but in the text of the speech you say, do you not, there are exactly three. I think that is the wording of the speech. Exactly three institutions under indictment but none tried. Is that right?—A. That is correct.

Q. And you did some research in determining which associations were under indictment at the time of the speech?—A. I did it, myself, because I get a daily newspaper.

Q. And you found then there were exactly three institutions under indictment, is that right?—A. Yes.

Q. And you found as to the status of each of them that none of those cases had gone to trial yet, is that right?—A. Oh, yes.

I understand an indictment is not guilt.

Q. And when you found these three indictments, these three cases you knew then, did you not, that First Colony and Mr. Edlin were under indictment at that time?—A. As I said before, I knew there was an indictment but that did not imply guilt as far as I was concerned.

Q. The question is, you knew that Mr. Edlin and First Colony were under indictment at that time?—A. I knew that First Colony was under indictment. I did not know that Mr. Edlin was particularly, no.

Q. You did not know particularly?—A. No.

Q. What do you mean, you did not know he was under indictment "particularly"?—A. I read in the paper that they alleged——

Q. They alleged he was under indictment?—A. That he was the head of First Colony.

[1298] Q. And that he was under indictment in that case?—A. That is correct.

Q. And when you discussed this speech with the Congressman before it was delivered by him on June 30, 1960 did you tell him that Mr. Edlin and First Colony Savings and Loan Association were under indictment?—A. We never discussed that phase of it at all.

Q. Did you ever during any of these times that you saw Mr. Edlin coming through the office, have occasion to inform the Congressman that Mr. Edlin was under indictment?—A. No, I did not inform him of any matter of that nature.

Q. You kept it all to yourself?—A. I presume it is in the newspaper. He can read as well as I can.

Q. You mean you presumed he knew it?—A. I presumed he could read as well as I can. I will put it that way, sir.

Q. And that he knew it?—A. I do not know. I do not know what he knew. I presume he reads the newspapers.

That was Mr. Buarque's testimony.

Now, Members of the Jury, the Government submits that it is incredible to believe that Mr. Buarque never told Congressman Johnson of this fact. We submit further that it is also incredible to believe that Congressman Johnson was unaware of the First Colony indictment which was then pending, not in California, not in Alabama, but right here in Maryland—his own state—pending right here in this Court, Members of the Jury.

Now, Congressman Johnson also claimed he did not know of First Colony or First Continental at the time he gave his speech. Under the circumstances and the testimony of this

case, Members of the Jury, we submit that [1299] assertion is preposterous. Congressman Johnson had been dealing with Mr. Edlin and Mr. Robinson for about six months in regard to a proposed loan in excess of $1 million. How could he have not known the background of these people with whom he was dealing?

You recall Congressman Johnson's cross examination where it was brought out that he had testified quite clearly under oath twice before in Montgomery County and before the Federal Grand Jury, that he knew when he was introduced to Mr. Edlin that Mr. Edlin was a representative of the First Colony Savings and Loan Association and that he was a representative of the First Continental Savings and Loan Association.

Members of the Jury, this speech was designed primarily for use by Mr. Edlin's associates; primarily for use by the First Colony Savings and Loan Association and the First Continental Savings and Loan Association. This speech was tailored to serve their particular needs. Only First Colony and First Continental, of all the independent savings and loan associations in Maryland were insuranced then with Commercial Mortgage Guaranty Insurance by the St. Lawrence Insurance Company and on June 30, 1960, the very day of the speech, Congressman Johnson was conferring with a representative of that company.

And, remember, too, that Mr. Edlin was the only one who ordered any reprints.

Members of the Jury, if Congressman Johnson's speech was not a part of a conspiracy to defraud the United States, as Congressman Johnson insists, why did he tell Mr. Estabrook in London that the speech was made at the request of his constituents when he knew that he had never discussed the proposed speech with any of his constituents? If Congressman Johnson had nothing to hide, Members of the Jury, why didn't he tell the truth? Does this not indicate a knowledge of his guilt?

Members of the Jury, if Congressman Johnson's speech was not a part of a conspiracy to defraud the United States [1300] as Congressman Johnson so insists, why did he tell Mr. Estabrook that he had written the speech, himself, when he knew as is clear from the testimony in this case that the speech had been written by Mr. Robinson, edited by Mr. Heflin and polished by Mr. Buarque. If Congressman Johnson had

nothing to hide, Members of the Jury, why didn't he tell the truth? Does this not indicate a knowledge of his guilt?

Members of the Jury, if Mr. Robinson's $500 check to Congressman Johnson on June 20, 1960 had no relation to the speech which was delivered ten days later by Congressman Johnson as Congressman Johnson and Mr. Robinson insist, why did both Congressman Johnson and Mr. Robinson fail to include that check when each first gave a written, signed statement to the Federal Bureau of Investigation? If they had nothing to hide, Members of the Jury, why didn't they disclose the truth? Does this not indicate a knowledge of their guilt? If the relationship between Congressman Johnson and Mr. Robinson in the period immediately prior to the speech was not a part of a conspiracy to defraud the United States as Congressman Johnson and Mr. Robinson insist, why did Congressman Johnson's first prepared statement to the FBI make it clearly appear that he met Mr. Robinson for the first time in August of 1960? Why did Mr. Buarque tell the FBI in early January of 1962 that Congressman Johnson and Mr. Robinson had never met until the spring of 1961? Why did Mr. Buarque tell the Federal Grand Jury that Mr. Robinson never came to Congressman Johnson's office prior to June 30, 1960? And why, Members of the Jury, did Mr. Robinson state to the FBI that he had not met Congressman Johnson until several weeks after the speech?

If the truth could not hurt them, Members of the Jury, if they were not attempting to hide the truth, why were they less than frank—why were they less than candid?

No, Members of the Jury, in fact, why did they lie? Why did they lie about Mr. Robinson's knowing Con-[1301]gressman Johnson before June 30, of 1960 and about that check of June 20, 1960?

I submit to you, Members of the Jury, that these denials clearly indicate a consciousness of their guilt, of the very matters for which they stand charged.

That, indeed, Congressman Johnson did make that speech for Mr. Edlin because he was paid by Mr. Edlin for making that speech.

Members of the Jury, we come then to the month of August, 1960. In this month Mr. Robinson on August 30, 1960 delivered the second check to Congressman Johnson. This was in the amount of $100,000. You will recall that that check

and the check of June 20, 1960 are identical on their face as issued by Mr. Robinson. There is no difference between those two checks other than the amounts and the dates of those two checks.

This, Members of the Jury, was the second installment to Congressman Johnson after the speech had been delivered and after Mr. Edlin had ordered 50,000 reprints through Congressman Johnson's Congressional office. Mr. Robinson was reimbursed for that check by a check from the First Colony Savings and Loan Association. No one yet has claimed that Congressman Johnson performed any legal work at that time for the First Colony Savings and Loan Association.

Further, according to Mr. Robinson's testimony, there had been no legal work performed by Congressman Johnson at the time that check was delivered. And no one who was involved in any alleged legal work performed by Congressman Johnson at that time except Congressman Johnson and except Mr. Robinson had any knowledge, according to the testimony in this case, of his alleged involvement. In fact, Members of the Jury, after delivering that $1,000 check to Congressman Johnson, allegedly as a retainer, Mr. Robinson went ahead to do all the legal work involved in making the loan to the Engineering and Development Corporation in early September, 1960, and he attended the [1302] settlement and had no further contact with Congressman Johnson about that settlement whatsoever. Mr. Robinson appeared at that settlement with Mr. Paul Berman—a Maryland lawyer—who represented the First Continental Savings and Loan Association.

Now, Congressman Johnson admitted that he never saw the original papers regarding that loan. And, although, Members of the Jury, Congressman Johnson was able to testify clearly on his direct examination, with the aid of prepared notes which he had made, on a number of exhibits he was totally unable to tell on cross examination which savings and loan association had made the loan to Engineering and Development Corporation.

Now, let me read you his testimony. On direct examination, Members of the Jury, he stated that that dealt with a $798,000 loan that had been made to First Continental Savings and Loan Association.

Q. By First Continental?—A. By First Continental.

Then several pages later in the course of an answer, he indicated that the lending institution was First Continental Savings and Loan.

When it got to cross examination, Members of the Jury, his testimony was as follows, being questioned by Mr. Marion.

> Q. Wasn't the Engineering and Development Corporation a First Continental Loan, sir?—A. I think it is a participating loan but Mr. Robinson is the one who at that time gave me the retainer. I had one retainer during the year 1960.
>
> Q. Now, do you know whether the Engineering and Development Corporation loan was a loan made by First Continental or not?—A. I have to refer to my file on that.
>
> Q. Do you know independently of your [1303] reference to your files?—A. No, because, as I told you, the Apple Grove I did not participate in that only after it was made.

He could not recall, Members of the Jury, which association made the loan.

Now, the defense even brought in Mr. Buarque, Members of the Jury, to tell you what alleged legal matters he had heard discussed in Congressman Johnson's office in the fall of 1960, and even in his effort to be helpful to Congressman Johnson, Mr. Buarque never testified to overhearing any discussions involving a Mr. Kastner who was the principal in Engineering and Development Corporation or Apple Grove or the Engineering and Development Corporation.

What Mr. Buarque claimed he did, in fact, hear in the fall of 1960 were discussions of the Cassell transaction which were not even—if you accept Congressman Johnson's and Mr. Robinson's testimony, brought to Congressman Johnson's attention until February of 1961.

Now, Congressman Johnson and Mr. Robinson both give conflicting testimony as to the check of August 30, 1960. Congressman Johnson testified that at the August meeting with Mr. Robinson, it was agreed that "there would be a $1,000 retainer for my services." On the other hand, Mr. Robinson testified that the actual amount of compensation was not discussed at that meeting, but both do agree now, Members of the Jury, when they testify in this case that that check of August 30 was a retainer check but neither one of them told that

to the FBI in January of 1962. Both then claimed that that check was in payment for legal work which Congressman Johnson had actually performed.

Then, Members of the Jury, to buttress his claim of having actually performed legal work on these Engineering and Development Corporation loans, Congressman Johnson produced copies of several legal papers. These were the first of a long series of documents which you will recall on [1304] which Congressman Johnson has, since the time he knew he was under investigation in this case, placed a number of penciled notations in his own handwriting.

I submit to you, Members of the Jury, that these documents were marked to give the jury the false impression that Congressman Johnson had reviewed the documents, back in 1960 and 1961. And that the notations had been made at that time, but Congressman Johnson forgot one thing, Members of the Jury, he forgot that he had obtained copies of several of these documents; that he had made thermofax copies of the copies he had obtained without any penciled notations and had handed those thermofax copies to the FBI in January of 1962. If it were not for that fact, Members of the Jury, it is entirely possible that Congressman Johnson might have been able to perpetrate a fraud upon you and upon this jury. If Congressman Johnson had done the legal work which he now insists he did, why was it necessary, Members of the Jury, for him to falsify documents to create a fraudulent impression for work that had not in fact been done? Why was Congressman Johnson satisfied with the truth, Members of the Jury, if the truth could not hurt him? If Congressman Johnson had, in fact, done any legal work on the Engineering and Development Corporation Loan matter, why did he on four separate occasions give four separate and inconsistent statements about the so-called advice which he allegedly gave Mr. Robinson with regard to those loan papers?

I refer to the cross examination but first I call to your attention a letter purportedly written on August 25, 1960, in which he said, Members of the Jury, that the loan agreement must be rewritten. In that letter he was advising Mr. Robinson that the loan agreement must be rewritten and he says that was his recommendation to Mr. Robinson, but before the Montgomery County Grand Jury he said that the mortgage notes should be rewritten and they should be rewritten to in-

clude what was set forth in the loan agreements, that the notes should be rewritten to incorporate what was in the loan agreement. He changed that [1305] again when he testified before the Federal Grand Jury and said that the mortgage notes should be rewritten because they did not incorporate the terms of the mortgages. So that the notes should be rewritten to incorporate the wording of the mortgages.

Finally, when he testified on direct examination in this case, Members of the Jury, he testified that he advised Mr. Robinson that the mortgage should be rewritten and that the mortgage should be rewritten to incorporate the terms of the loan agreement. Four explanations, all inconsistent. Do they not indicate, Members of the Jury, that he had no conception at any time of what, if anything, he might have done?

And then we went further with that line of questioning, Members of the Jury, and Congressman Johnson admitted that neither the mortgage nor the two mortgage notes, nor the loan agreement were rewritten by him or by anyone else but yet, Members of the Jury, he had told the Federal Grand Jury that he had in fact revised the mortgage note. He was taking credit for legal work which he later admitted he did not do. If he, in fact, had done this legal work, Members of the Jury, why did he have to be untruthful before the Federal Grand Jury, under oath? Why did he have to claim that he had revised these mortgage notes which he knew he had not in fact revised?

And, in referring to the letter of August 25, 1960 purportedly written on that date, Members of the Jury, I submit to you that this letter, a photostatic copy which we have was a phoney letter and that Congressman Johnson knew that this letter was phoney and he avoided putting in to evidence either the original or an office carbon copy of that letter. He was afraid, Members of the Jury, that that letter would not stand close scrutiny.

Back in January, 1962, Members of the Jury, Congressman Johnson was not hesitant about giving that thermofax copy to the Federal Bureau of Investigation in an effort to [1306] make it appear as though he had done some legal work in 1960. And even though he was questioned sharply about it while he was on the stand under oath, he never produced his original carbon copy from his office files nor did Mr. Robinson who appeared as Congressman Johnson's witness, nor did he produce the original. In fact, Members of the Jury, Con-

gressman Johnson never testified that he ever sent the original of this letter to Mr. Robinson. Mr. Robinson never testified that he ever received the original of that letter.

Members of the Jury, this is the only evidence which even suggests that Congressman Johnson wrote to Mr. Robinson at all during the entire year of 1960. The letter purports to have been written from Berlin on August 25, 1960 but, as you recall from the testimony, Congress was then in special session in Washington, D.C. and according to Congressman Johnson's own telephone records, they indicate quite clearly that he, too, was in Washington on August 25, 1960 not in Berlin.

Ask yourselves, Members of the Jury, whether the carbon copy from which the thermofax was made was not, in fact, prepared by Congressman Johnson sometime in early January of 1962 at a time when he knew that he was under investigation, solely for the purpose of providing the FBI some purported documentation for legal work allegedly done in August or September of 1960 and for the purpose of providing a justification, Members of the Jury, even though a fraudulent justification for his receipt of a $1,000 check from Mr. Robinson, five days after the date which this letter bears.

Ask yourselves, Members of the Jury, whether an innocent man would have found it necessary to have engaged in such deception?

Congressman Johnson also claimed, Members of the Jury, that in December, 1960, he participated in the preparation of certain loan papers involving a proposed loan to the Savarin Development Corporation. This was property [1307] which you will recall involved the Green Meadows Apartment House Project.

In that regard I ask you to consider the following pertinent points, Members of the Jury, as developed by the testimony of Congressman Johnson, himself. He admitted on the stand that he had never mentioned the name of the Green Meadows Apartment House loan or the name of the Savarin Development Corporation when he testified before either the Montgomery County or the Federal Grand Jury.

Members of the Jury, he admitted that he never testified before either of those two grand juries as to any alleged legal work between September of 1960 and February of 1961.

Congressman Johnson could not tell you, Members of the Jury, whether he found the papers which he introduced in evi-

dence relating to this loan in his own office or in Mr. Robinson's office and he could not tell you whether he ever saw those papers in December of 1960 even though those papers now bear notations in Congressman Johnson's own handwriting.

Once again, Members of the Jury, on cross examination, Congressman Johnson was unable to recall what his testimony had been on direct examination. When he testified on direct examination, he stated—under questioning by Mr. Doub:

> Q. And you participated in that preparation?—A. I did participate in the preparation of the entire loan agreement, the mortgages.

And this refers to the Savarin Loan. But, on cross examination, Members of the Jury, this was his testimony, being questioned by myself:

> Q. Congressman, you testified on direct examination as to work you say you did in connection with the preparing of the loan—agreement regarding the Savarin Development Corporation, is that correct?—A. I told you I had prepared a charter for the Savarin [1308] Corporation, and minutes and by-laws and they were prepared by me.
>
> Q. Did you not also testify that you participated in the preparation along with Mr. Robinson, of the loan agreement and the other loan papers in connection with that loan?—A. I participated only to the degree that we ran into serious legal complications because the proposed loan dealt with two tracts.
>
> Did you or did you not prepare or participate with Mr. Robinson in the preparation of the loan papers which are contained in that defendant's exhibit 50-G which I showed you earlier this morning that sheaf of papers regarding the Savarin Development Corporation?

That was this exhibit and his answer was:

> Would you show it to me again? I do not recall.

Then the question:

> Johnson Exhibit 50-G and it contains does it not, copies of the various loan papers in connection with that loan?—A. Yes, I think that my testimony that Mr. Robinson prepared the loan agreement, he consulted with

me. It was only on a consultation basis. There was a mortgage and other papers.

Q. All right. Now, my question, Congressman, is, did you or did you not assist Mr. Robinson in preparing those papers, those loan papers which comprise Defendant's exhibit 50–G?—A. Well, I assisted from the standpoint of consultations, legal advice.

Q. But did you go over these papers before they were typed in final form?—A. Through discussion with Mr. Robinson.

Q. Did you ever look at them in December of 1960?—A. I do not know whether I noticed these or Mr. Robinson's rough draft. That I do not know.

[1309] Q. Are you testifying that you either saw these or you saw a rough draft of these?—A. I can say that Mr. Robinson consulted me time and again in respect to this very difficult proposed loan which we never made.

Q. Congressman, I am trying to find out whether you actually did any work on what turned out to be the papers, the loan agreement and the other sheet in that?—A. I told you I did consultation with Mr. Robinson. He consulted with me in regard to the provisions to be contained in the proposed loan agreement, the mortgage and other papers.

Q. Did Mr. Robinson ever show you the original or any draft of any loan agreement?—A. I do not recall his showing me the original but definitely we had many hours of discussion there on this particular project.

Q. Is it your testimony then, Congressman, that you do not recall ever having seen any of those papers in December, 1960, which comprise Defendant Johnson exhibit 50–G.—A. Mr. Marion, I do not know what papers were shown to me. Mr. Robinson spent considerable time with me, discussing this particular proposed loan.

And then, Members of the Jury, I refreshed his recollection from his testimony which he had given on direct examination, and then he said, "Since you read it. I did work with Mr. Robinson when he had his secretary to come from Florida.

Q. All right.

Now, do you recall that you so testified on Monday, May 6 or do you recall what actually took place in December of 1960?—A. I recall both.

> Q. Which is the correct version of whether or not you participated in the preparation of those papers?—A. That I participated. What I testified to.
>
> [1310] Q. You did participate in the preparation of that loan agreement, is that your testimony?—A. Yes.

And yet, Members of the Jury, when he finally decided on cross examination that he had, in fact, participated in the preparation of those loan papers, that loan agreement, it developed, you will recall, that he had told the Federal Grand Jury under oath that he had never participated and never prepared any loan agreement for either First Colony or First Continental. His testimony on those matters before the Federal Grand Jury was quite explicit.

> I did not prepare any loan agreement on the part of First Continental or First Colony for any loan.

And on the following page:

> I worked in conjunction with the other attorneys but not in any loan agreements.

I ask you to consider, Ladies and Gentlemen of the Jury, whether or not the only legal connection which Congressman Johnson had with the Savarin loan was not in fact the study which he made immediately prior to his testifying on the stand in this case in 1963. I ask you to consider, Members of the Jury, whether Congressman Johnson was not in fact untruthful to this Jury from this witness stand under oath when he told you that he performed legal work in connection with this Savarin Loan?

Members of the Jury, these are not mere details. These are the frantic fabrications of a man who knows that he is guilty.

Now, in February of 1961, Congressman Johnson claims to have engaged in certain legal work involving a loan from the First Colony Savings and Loan Association to Mr. A. I. Cassell. Members of the Jury, when you come in and cut through all of that testimony, this involved little more than having Congressman Johnson look at a printed form, a printed form of mortgage in order to determine that 305 identical printed forms of mortgage lacked an affidavit of consideration which Mr. Robinson had known since Sep-[1311]tember of 1960—five months before, were required on all Maryland mortgages.

This is the type of printed form, Members of the Jury, such that once you have seen one, you have seen them all.

When Congressman Johnson made this revelation, the mortgages, the printed forms were sent to Mr. Harry Adelberg in Baltimore for his correction of the so-called "defect."

Congressman Johnson's lack of knowledge of the matter was illustrated by his confusion when he testified under oath before the Montgomery County Grand Jury, he could not recall how many there were. He thought there were maybe 300, 400 or 500 and then he settled on 600 and then he tried to tell the Montgomery County Grand Jury that his review of 305 printed mortgages or 600 or how many he settled on, identical printed forms, he found half of them defective.

I ask you how can half or 305 identical mortgages be defective and the other half not defective?

And Mr. Adelberg likewise claimed, Members of the Jury, when he testified as a witness on behalf of Congressman Johnson in his direct examination that Congressman Johnson assisted in making the correction which was required for the absent affidavit. But you will also recall, Members of the Jury, that Mr. Adelberg had testified before the Federal Grand Jury in January or February of 1962 that Congressman Johnson did not participate in the work on the Cassell mortgages.

Mr. Adelberg also told the FBI when they interviewed him in January of 1962 that Congressman Johnson had not done any of this work, that, in fact, Members of the Jury, Congressman Johnson did not even know when he gave his prepared statement to the Federal Bureau of Investigation and when he testified before the Montgomery County Grand Jury how the correction was made. His prepared statement indicates that new indentures—plural—[1312] several, had to be prepared. When, in fact, Mr. Adelberg prepared a single confirmatory mortgage.

Congressman Johnson also told the Montgomery County Grand Jury that "We rewrote the mortgages," which just simply was not done.

Once again, Members of the Jury, Congressman Johnson could not recall on cross examination what he said previously testified to on direct examination, and his testimony was as follows:

> Q. I also believe you testified in this connection, Congressman, that after you had discussed these Cassell mortgages with Mr. Harry Adelberg of Baltimore, the two of you agreed that one confirmatory mortgage

would suffice to correct the absent affidavit; was that your testimony?—A. Which testimony is that?

Q. Your testimony before this jury.—A. It could have been. I do not recall.

Q. Well, do you want me to refresh your recollection?—A. I would say that it is.

The COURT. In about five minutes we will take a recess. When you are at an appropriate breaking point.

Mr. MARION. Then two pages later:

Congressman Johnson, the confirmatory mortgages, the one confirmatory mortgage which was in fact prepared, was prepared, was it not, by Mr. Harry Adelberg?—A. I would say it was prepared by Mr. Adelberg after possibly considerable conferences.

Q. Isn't that what you previously testified here to, that it was prepared by Mr. Adelberg?—A. I presume I did. I do not recall.

Members of the Jury, I submit to you that after Congressman Johnson on direct examination was forced to leave his prepared script, he just could not remember what he was supposed to have done.

[1313] Finally, Members of the Jury, Congressman Johnson never knew when the confirmatory mortgage was prepared by Mr. Adelberg. He never knew that it was never fully executed nor did he know that it was never recorded.

Now, also, in connection with the Cassell loan—Congressman Johnson claimed on the stand under oath that he did some work in regard to a mechanic's lien involving a contractor by the name of Humphreys. Mr. Humphreys never knew anything about it. Mr. Humphreys' lawyer never knew anything about it. Mr. Cassell never knew anything about it. And Mr. Cassell's lawyer never knew anything about it. In fact, Congressman Johnson never knew who Mr. Cassell's lawyer was.

In connection with this so-called "legal work," Congressman Johnson never knew enough about it to determine whose lawyer he was and on whose behalf he was allegedly acting.

Members of the Jury, what kind of legal work is that? I think this would be a good time to break.

The COURT. The jury will take a recess for not more than 10 minutes.

[A ten minute recess was taken.]

The COURT. Mr. Marion, you have been about an hour and

a quarter. If you go another hour and a quarter until lunch, if you are not finished, then you can start again after lunch.

Mr. MARION. I have covered roughly half, Your Honor.

The COURT. If you want, I will give you a rap about five minutes of 1. If you want to run on and finish, let me know. If you want a break at 5 minutes of 1, let me know.

[1314] ORAL ARGUMENT ON BEHALF OF THE GOVERNMENT—(continued)

By Mr. MARION:

Mr. MARION. If Your Honor please, Members of the Jury: Let us look back now to early January of 1961. It was at that point that the fourth member joined this conspiracy. Congressman Frank W. Boykin was then entering his 27th year in the House of Representatives. In addition, he was a successful businessman with large timber interests.

During the 1950's he had acquired two tracts of land about which you have heard considerable testimony. He had acquired those tracts for timber purposes, one in Charles County, Maryland and the other in Stafford County, Virginia.

Let us take a look at the Stafford County, Virginia tract. In early January of 1961 the tract consisted of approximately 4700 acres of land and had been acquired in the early 1950's for a total cost of $154,000 or approximately $33 per acre. The tract had been timbered for several years.

Then in 1955, approximately 4,000 acres—the tract as it existed at that time—was sold to Stafford Estates. Stafford Estates put $17,500 down, and Congressman Boykin took in the name of Tensaw Land and Timber Company a purchase money mortgage with his land as the sole security, but which, if that development had been successful, would have allowed Congressman Boykin in the name of the Corporation, Tensaw Land and Timber Company, to receive an additional $342,500 or approximately $92 per acre.

Stafford Estates was unsuccessful. It never sold any portion of the tract. Stafford Estates finally folded—you will recall the testimony—in 1957 and in 1957 Congressman Boykin was forced to foreclose, and Tensaw Land and Timber Company repurchased the property at a foreclosure sale for the cost of $150,000, or approximately $38 per acre.

[1315] Sometime later Congressman Boykin tried again. You

We heard some testimony about Mr. Sigmund Pines, but all Congressman Boykin could get from Mr. Sigmund Pines was $100 down payment on that tract of land.

Congressman Boykin thought so little of that deal that he never bothered to record the purchase agreement with Mr. Pines. That deal likewise fizzled. So that in 1961 Congressman Boykin, in the name of Tensaw Land and Timber Company, still held the property which at that time was assessed by Stafford County, Virginia at $87,000.

The tract of land, Members of the Jury, in Charles County, Maryland was approximately 8,000 acres. It, too, had been acquired in the early 1950's at a total cost to Congressman Boykin of some $505,000 or approximately $75 per acre. This property, too, was timbered for several years and then in 1958 Congressman Boykin persuaded Mr. Arthur Desser of the Lefcourt Realty Company, a developer, to put $100,000 down on a purchase of that property and Congressman Boykin took back in the name of Mr. Albert Ernest, a purchase money mortgage, again with the land as the sole security and which purchase money mortgage, if Mr. Desser had been successful in developing the land, would have allowed Congressman Boykin to receive an additional $5,900,000.

Mr. Desser immediately began to run into problems. He had a problem with the topography of the land, itself. The land was flat. It was marshy, etc. It was uncleared. The sewage and drainage problems were almost insurmountable. To solve those problems, according to the testimony of Mr. Lykes Boykin who ppeared as a defense witness, would have required an expenditure of in excess of $1 million.

Mr. Desser also had difficulty, you will recall, in getting any sort of workable proposal or agreement with the Charles County officials and the Maryland Department of Health with respect to the sewage problem which existed on that tract. [1316] Finally, in 1960, Mr. Desser entered into an agreement with the Charles County officials under which he had to pay the entire cost of installing any sewage system.

Mr. Desser also had the problem of the inability to obtain from the Federal Housing Administration its approval of his proposed project. You heard the testimony of Mr. Barringer, who was in charge of the Washington office at that time, of the Federal Housing Administration. He indicated that he told Mr. Desser and his people that there was no evidence of any

market-ability for housing in that area except on a low-cost, small-scale, local basis.

Mr. Desser was unable through the year 1960 to secure any financing for a development of that property. No lending institution was willing to lend Mr. Desser money. All they gave Mr. Desser on his proposals for financing was a cursory examination and then an immediate rejection.

At this time in early 1961, the tract of land in Charles County was assessed by Charles County at $385,000.

Mr. Desser had made only one interest payment in three years to Congressman Boykin. Congressman Boykin had been forced to grant seven extensions to Mr. Desser, and it became apparent then, at the end of 1960 or early 1961 to Congressman Boykin, Mr. Desser would pull out if financing were not made available for a development of that property.

Congressman Boykin was then faced with the prospect of foreclosure of that tract and the attendant problems of a foreclosure. At this time, Members of the Jury, Congressman Boykin needed a J. Kenneth Edlin who had money running out of his ears, to pump into this land for development purposes and to bail him out.

This was the critical problem which brought Congressman Boykin into this conspiracy. It was in this context, Members of the Jury, that in early January of 1961, according to the testimony, that Congressman Johnson [1317] introduced Congressman Boykin to Mr. J. Kenneth Edlin and Mr. William L. Robinson. At that time Congressman Boykin had a problem, but Mr. Edlin likewise had a problem. Each though, Members of the Jury, had something to sell. Mr. Edlin exercised absolute control over the depositors' funds in two savings and loan associations, the First Colony Savings and Loan Association and the First Continental Savings and Loan Association.

He had the money, Members of the Jury, which could be made available for the development of Congressman Boykin's land. Congressman Boykin, on the other hand, had something even more precious to offer. He had rank, he had power. He had prestige. He had position in the Congress of the United States and in addition, he had a personal acquaintance with the Attorney General of the United States.

In short, Members of the Jury, Congressman Boykin had Congressional influence which he was willing to peddle. It

was at this point in time, Members of the Jury, that Mr. J. Kenneth Edlin and his chief aid, Mr. Robinson, bought their second Congressman, Congressman Boykin first tried to get Mr. Desser and Mr. Edlin to come to terms on a development loan to Mr. Desser but this was to no avail. There were several bargaining sessions in regard to this proposed loan and you will recall that Congressman Johnson claimed on the stand that he had participated and was present at many of these meetings and that this was part of his alleged legal work on behalf of the Edlin interests.

But you will recall also, Members of the Jury, that both Mr. T. Lamar Caudle—who appeared early in the trial as a government witness—and Mr. Lykes Boykin, who appeared more recently as a witness for the defense both testified that Congressman Johnson did not attend those meetings. Nevertheless, Mr. Robinson, when he testified, and Congressman Boykin, when he testified, adopted the Johnson line and testified to you, Members of the Jury, that [1318] Congressman Johnson was in fact, present at those meetings.

I ask you whether or not in this regard the testimony of Mr. Caudle and Mr. Lykes Boykin is not more credible and more worthy of your belief than the testimony of Mr. Johnson, Mr. Robinson and Mr. Boykin—Congressman Boykin?

When the Desser negotiations finally broke down, Congressman Boykin along with Congressman Johnson, had already visited the Attorney General of the United States on behalf of Mr. J. Kenneth Edlin. But in order to make it worthwhile for him to continue to exert his Congressional influence on the Department of Justice, Congressman Boykin upped the ante to Mr. Edlin at that point. He extracted, Members of the Jury, an agreement from Mr. Edlin to buy not only the Charles County Land but the Stafford County, Virginia Land, and that is clear from Congressman Boykin's letter.

Let me read you from Government Exhibit 113–C, a copy of a letter which Congressman Boykin wrote on May 2, 1961 to Mr. Austill Pharr of the First National Bank of Mobile. He says on the second page of that letter:

> Then I would not sell one place without the other. So, we sold him the Brooke, Virginia property for $3 million.

And secondly, he extracted from Mr. Edlin, Members of the Jury, an agreement to make available for development pur-

poses not just $2 million, but $3.5 million, $3 million for the development of the Charles County tract and half a million dollars for the development of the Stafford County, Virginia tract.

And that, too, appears in Congressman Boykin's letter to Mr. Pharr.

"He has agreed," speaking of Mr. Edlin, "to spend $3 million on our Waldorf property and I sub-[1319]rogate 1,000 acres for him to spend this on. Also he agrees to spend a half million dollars on the Brooke property."

Finally, Members of the Jury, Congressman Boykin extracted from Mr. Edlin the additional agreement that Mr. Edlin would bear the cost of a foreclosure to foreclose the Desser interest in the Charles County land. To save Congressman Boykin the expense of foreclosure, Mr. Edlin had to take and bear that cost. I read from Government exhibit 113–D, a letter from Congressman Boykin to Mr. Henry Holland of July 3, 1961.

> Mr. Edlin agreed to pay for the foreclosure which was $25,000. We will not have to pay the cost on the foreclosure and Mr. Edlin had to give a bond for this $6 million-some odd and we will not know the exact amount until you send it to us or maybe we will have to do it here. Anyway, figure on what you think it is and we will do the same here.
>
> Then the premium which Mr. Edlin will have to pay on foreclosing is $11,000, so you see, the foreclosure would cost us about $36,000 and then, of course, legal fees. So, I am thankful we are out of that.

Then on April 29, 1961, Members of the Jury, Mr. J. Kenneth Edlin purchased in the name of the Charles County Land Company the Ernest mortgage on the Charles County tract in order to foreclose that tract at no expense to Congressman Boykin, and he also purchased in the name of the Liesure City Land Corporation the Stafford County Virginia tract. That night $250,000 was delivered by Mr. Edlin to Congressman Boykin in cashier's checks as the binder on the transaction and you recall Congressman Boykin's letter in this regard, the same letter to Mr. Austill Pharr of May 2, immediately after he received those checks.

He told Mr. Pharr in that letter:

> Well, anyway, we are getting along pretty good and if we never got anything else out of it but the [1320] $250,000 cash, which I sent you yesterday morning, we would be all right. But we will get it all or get the money back.

And you will also recall, Members of the Jury, that after this transaction had taken place on the weekend of April 29, 1961 Congressman Boykin's son was pleasantly surprised with the sales of these two tracts. He thought it was very good news and you recall, I am sure, the letter which he wrote on May 3, 1961 to Mr. Lykes Boykin:

> This sale and the one at Waldorf are certainly good news, he said. It seems that Dad has done the impossible again.

Now, Members of the Jury, why was Congressman Boykin able to do the impossible? I submit to you that it was because there was a part of that bargain that was not put in any recorded instrument. It was Congressman Boykin's agreement to continue to exert his Congressional influence on Mr. Edlin's behalf before the Department of Justice. That was really what made this deal possible, Members of the Jury.

Now, Charles County Land Company and Leisure City Land Company also served another useful purpose for the four defendants in this case. They were the corporate conduits through which savings and loan association funds were funneled to Congressman Johnson ostensibly as legal fees but in reality we submit, Members of the Jury, for his cooperation in exerting his Congressional influence on the Department of Justice.

There was, of course, certain legal work which was and had to be done for Charles County Land Company and Leisure City Land Company and by whom was it done? Several other lawyers were engaged actually to perform the required legal work.

In Virginia there was Mr. Hunter Andrews who incorporated the corporation. Then there was Mr. James Ashby, Jr., Mr. J. Wilson Ingram, Mr. J. M. H. Willis, Mr. [1321] Frank Moncure and in Maryland there was Mr. Harry Adelbergh who incorporated the Charles County Land Company and Mr. Rudolph Carrico and Mr. F. De Sales Mudd of Charles County.

Congressman Johnson claimed that he was promised a total legal fee of $25,000 for work in connection with the two land

companies, and that this agreement was reached at a meeting or a conference which was held on May 2, 1961 at which were present Congressman Johnson, Congressman Boykin, Mr. Edlin and Mr. Robinson.

Members of the Jury, never before his direct testimony in this case had Congressman Johnson mentioned—not to the Federal Bureau of Investigation, not to the Montgomery County Grand Jury, not to the Federal Grand Jury, this alleged meeting of May 2, 1961, and agreement to receive $25,000.

Upon his receipt, Members of the Jury, you will recall, of $10,000 in the month of May, 1961 from the two savings and loan associations, the check stubs showed legal fees in full Brooke, and legal fees in full-Waldorf.

There has been no explanation of why those check vouchers showed that legal fees in full had allegedly been paid after a mere $10,000 of the entire $25,000.

You also recall that Congressman Johnson told the Federal Grand Jury when he testified there under oath, that we had not discussed a final, or even fees in detail, referring to the time when he was appearing five to seven months before the Department of Justice.

Mr. Robinson told the FBI that he had no personal knowledge of a number of the savings and loan association checks to Congressman Johnson and he thought that Congressman Johnson had actually received from $6,000 to $7500 and Mr. Robinson never mentioned any agreed legal fee of $25,000 prior to his testimony here.

Yet, once again in their testimony, Members of the Jury, [1322] both Mr. Robinson and Congressman Boykin adopted the Johnson line and testified substantially the same as Congressman Johnson had done about this meeting.

In fact, Members of the Jury, money was just doled out to Congressman Johnson from May through October of 1961. Savings and Loan Association checks, William L. Robinson's personal checks, a check allegedly for rental of the Snow Hill office owned by Congressman Johnson and some $3,000 in traveler's checks, and I ask you this, Members of the Jury, if those Traveler's checks were bona fide payment for bona fide legal services, why did Congressman Johnson deny to Mr. Estabrook in London that he had ever received them and why did he call Mr. Estabrook back ten hours later and change his story and then tell him that he had, in fact, paid for the $3,000

in traveler's checks? Both stories, Members of the Jury, were untrue. Why, if the truth about those traveler's checks could not have hurt Congressman Johnson, why did he lie about them to Mr. Estabrook?

Now, the Government does not mean to suggest, Members of the Jury, that there was no meeting between these four defendants on May 2, 1961 in the office of Congressman Johnson, nor do we mean to suggest that there was no discussion at that meeting among these four defendants about substantial consideration or remuneration being paid to Congressman Johnson.

But, Members of the Jury, ask yourselves, if that discussion was not in fact in the context of Congressman Johnson's continued efforts as a Congressman along with Congressman Boykin, who had arranged his satisfactory agreement the weekend before to continue their efforts with the Department of Justice in an effort to persuade the Department of Justice to dismiss the case which was then pending against Mr. Edlin? Is it not significant that Congressman Boykin was present at that meeting when the question of an alleged legal fee was discussed between Mr. Johnson and Mr. Edlin?

[1323] Now, with respect to the defense which has been presented of legal services done by Congressman Johnson, the Government wishes to be fair, Members of the Jury, it does not suggest to you that Congressman Johnson did no legal work whatsoever. But we do submit that the only legal work of any substance or consequence in which Congressman Johnson actually took a part as a lawyer was the negotiation with Mr. Boykin, Mr. Lykes Boykin for a period of approximately one week from July 10 to July 17, 1961, durig the period of time when an agreement was finally reached with Mr. Desser and Mr. Desser's interest in the Charles County land was purchased for $225,000.

I submit to you that from his testimony on the stand that was the only legal matter about which Congressman Johnson testified with any assurance or any real indication that he had actually been involved in the matter at the time it was in fact going on.

In fact, this was the only significant work done by Congressman Johnson as a lawyer which was corroborated by any witness other than Congressman Johnson and Mr. Robinson.

Even then, Congressman Johnson did not begin this matter nor did he end it but he came in in the middle for purposes of

appearance. And, significantly, Members of the Jury, during that very month of July, Congressman Johnson received no checks from Mr. Edlin or his interests and during that month of July, he made no visits to the Department of Justice.

I ask you to consider, Members of the Jury, whether there was anything arm's length in the transactions and negotiations which took place between the two land companies and the two savings and loan associations.

All four of these were controlled by Mr. Edlin. Mr. Edlin was all four and I submit to you that both of these Congressmen knew that to be a fact.

Congressman Johnson claimed to you that he was [1324] bothered sometime in August of 1961 by so-called undisclosed principals in the Charles County Land Company and the Leisure City Land Company. But, of course, Members of the Jury, it did not bother him enough for him to sever his relationship with Mr. J. Kenneth Edlin or for him to stop accepting money from Mr. Edlin up to October 23, 1961, the day on which he made his last contact with the Department of Justice and I submit to you that it is clear from Congressman Boykin's letters to Mr. Holland and Mr. Pharr in Alabama that he knew that the only principal of the two land companies was Mr. J. Kenneth Edlin.

Ladies and gentlemen of the Jury, he knew very clearly that Mr. Edlin was the man with whom he was dealing.

Now, Mr. Edlin gave Congressman Boykin more than $250,000 in cash on April 29, 1961. Mr. Edlin also signed an agreement binding his two savings and loan associations to spend a total of three and a half million dollars to develop Congressman Boykin's two tracts of land, under terms so favorable that no mortgage banker has ever heard of such terms.

You recall the testimony here of Mr. Buttner of Baltimore and of Mr. Oliver Walker and Mr. George De Franceaux of Washington. Regardless of what the value of the tracts of land was at the time, spending three and a half million dollars to prepare the tracts for development to overcome the serious problems of sewage and of drainage and of water, would have made the land substantially more valuable. And this built-in financing also made the land valuable. And even then after binding his associations, committing them to pump three and a half million dollars into these two tracts of land, Mr. Edlin still agreed to pay Congressman Boykin and Congressman

Johnson a very large commission if he, Mr. Edlin, could in fact, sell the lands to other parties.

This, of course, was an additional inducement for the two Congressmen to make the concerted effort which they did in Mr. Edlin's behalf before the Department of Justice.

[1325] Now, Members of the Jury, the testimony which was produced on behalf of the defendant Boykin relating to the Finneran sale and the value of the two tracts, the Government submits was nothing more than a smoke screen. It was immaterial and irrelevant to the real issues in this case.

Let us take a look for a moment at this defense. Mr. Finneran was not a local man with the knowledge of the real estate and real estate values in this area such as was possessed by Mr. Buttner and Mr. Walker and Mr. De Franceaux, all of whom turned down loan proposals for this Charles County land. There is no testimony that Mr. Finneran had an appraisal made of this property before he purchased it from Mr. Edlin in December of 1961. What he was buying, Members of the Jury, was the built-in financing. The fantastic financing terms promised by Mr. Edlin for development.

Mr. Finneran paid a fancy price, if you will, but with little real risk and little liability, and remember that he paid less money down for both of these properties than Mr. Edlin had paid Congressman Boykin for each one of them.

Now, Mr. Edlin's promised development loan financing with its fantastic terms was worth approximately $6 million because, when those funds became unavailable, Members of the Jury, at the time First Continental and First Colony went into receivership, Mr. Finneran was able to cut Mr. Edlin's price down by almost $6 million.

You will recall that after acquiring this property, Mr. Finneran took nearly one year to obtain any other funds in order for him to develop this property and finally, in December of 1962, the Kirkeby-Natus Corporation in New York agreed to lend money but only on the most stringent terms and on terms under which Kirkeby-Natus could not lose. They agreed to loan $2 million but they agreed on an origination fee or an initial payment of $400,000—an origination fee of 20 per cent which none of the mortgage [1326] bankers who testified here in this case say they have ever heard of. And that indicates an extremely high risk was involved.

Then Mr. Finneran had to pay off the savings and loan associations and Congressman Boykin had to subordinate his entire purchase money mortgage on the Charles County tract. This Congressman Boykin was then willing to do, Members of the Jury. Because, by that time he was under indictment in this case. Congressman Boykin needed Mr. Finneran in the picture in order that he might have some straw on which to construct a defense.

Is it not strange, Members of the Jury, that for a full year prior to his indictment there was not a whisper in this case of his willingness to subordinate his purchase money mortgage but after his indictment, he was then willing to subordinate in order that the savings and loan associations from whom he had received $250,000 in cash, could be paid off?

And then once Congressman Boykin was willing to subordinate, the Kirkeby-Natus Corporation took a first mortgage on the entire tract of land and yet they were still not satisfied; they were not satisfied with the security which that land offered. They required, before that loan was made, that three millionaires would personally guarantee that loan in the total amount of $2,400,000 to the extent of $800,000 apiece. Personal guarantees.

But even so, the immateriality of all of this as a defense becomes apparent when you look, as we have done earlier in my presentation, at the circumstances which existed and the situation in which Congressman Boykin found himself in early 1961, prior to the time when Congressman Boykin and Congressman Johnson went to the Department of Justice, not in December of 1961, not in 1962, and not in 1963.

So, it was that sometime in early 1961 both Congressman Boykin and Congressman Johnson agreed with Mr. Edlin, [1327] and Mr. Robinson to use their Congressional influence to seek a review by the Department of Justice of the First Colony case. Although they may have talked in terms of review when they went to the Department of Justice, the Government submits that it is quite clear that all four of these defendants expected and anticipated that such a review at the request of two Congressmen of the United States would result in a dismissal of that indictment. Is that not clear from the testimony of Mr. T. Lamar Caudle, who said he was an old friend of Congressman Boykin? He testified, Members of the Jury, about a meeting either in January or February of 1961.

Q. What, if anything took place when you first met Congressman Johnson?—A. There was discussion in the presence of Mr. Edlin and Mr. Robinson about the indictment that involved Mr. Edlin's sister, First Colony Savings and Loan Association and Mr. Jackson Rains.

Q. All right. You were starting to say what you explained to Congressman Johnson at that meeting.—A. I explained to Congressman Johnson that an indictment was an instrument where the Grand Jury found probable cause to allegations of some violation of the Federal Law or a State law. For that matter, and that it was extremely difficult and very hard unless it could be overwhelmingly shown that the Government was in error, to have the indictment once, it was returned, dismissed. That it was very rarely ever when I was associated with the Department of Justice that an indictment was dismissed. But indictments were dismissed when it was conclusively shown that the Government was in error by its own attorneys and they were dismissed.

Q. What, if anything, did Congressman Johnson say when you advised him of that?—A. Congressman Johnson from my conversations with him—we did not go into the merits at that time but he was very much familiar with the subject. I had been with the subject off and on.

And is it not clear, Members of the Jury, that they were [1328] before the Department of Justice to seek a dismissal from the testimony which Congressman Boykin gave, when he appeared before the Federal Grand Jury, when he made his reference to the "Hoffa Swap," the question: "Congressman Boykin"—that is to Congressman Boykin before the Federal Grand Jury, was:

What did Mr. Edlin and Mr. Robinson hope would be accomplished by the Attorney General and the Department of Justice taking the case under advisement and studying it?

A. They were trying to swap off Hoffa for that deal.

I submit to you that what he was talking about was that this Hoffa story was bait to be dangled before the Attorney General of the United States in the hope that that bait would convince the Department of Justice that, in return for Mr.

Edlin's cooperation, they would swap and agree to dismiss this indictment.

Is it not clear, also, from Government Exhibit 86—this bulky synopsis of the entire indictment which was presented by Congressman Johnson to the Attorney General of the United States in March of 1961, is it not clear from that exhibit that what they sought was a dismissal of this indictment, and is it not clear, also, from the allegations which these two Congressmen made to the Department of Justice that the indictment was faulty, that the case had no merit, that the case was motivated by a disgruntled employee, a Mr. Bridges, whom I might add, was so indicted also in that case? Is that not clear, from Congressman Boykin's and Congressman Johnson's concern over Mr. Edlin's prior criminal record and is that not clear from the testimony of the Attorney General of the United States when he testified, he stated, Members of the Jury, on cross examination:

> I reached the clear conclusion that what you wanted to accomplish was the dismissal of the indictment.

[1329] And on the following page he said, "These meetings that occurred were for the purpose of dismissing the indictment against Mr. Edlin."

And you recall his answer to Congressman Johnson who was then cross examining, "Well, Congressman, can you tell me why you were so anxious to come in there and have us review it if you did not want us to dismiss it?"

You will also recall that Congressman Johnson asked for review after review. When one review showed that the case would proceed, he asked for another review. In short, Members of the Jury, is it not clear from all of the testimony in this case that the two Congressmen sought to have the case against Mr. Edlin and First Colony and the others dismissed by the Department of Justice?

The plans to go to the Attorney General began at least in February 1961. There were meetings in which Mr. Caudle participated involving these four defendants.

Then in early March of 1961 Mr. Robinson addressed a letter to Congressman Johnson in Washington on March 1, 1961, Defendant Johnson exhibit 69, Members of the Jury, in which he invited Congressman Johnson to come to Miami during which time "I would very much like the opportunity to discuss with you several of the loans which we are now considering."

I submit to you that that letter did not represent the true facts. I submit to you that there were no loan matters discussed in Miami. But that Congressman Johnson went to Miami at that time to discuss with Mr. Robinson and assist in the preparation of a memorandum which related to Mr. Bridges material which was subsequently used in the memorandum which was, in fact, submitted to the Attorney General of the United States.

Congressman Johnson was in Miami the day after this letter was received by him. He testified that he worked with Mr. Robinson on a memorandum regarding Mr. Bridges and regarding the First Colony indictment.

[1330] Congressman Johnson, though, had told the Federal Grand Jury under oath when he appeared before that body that the only work he did in Miami related to certain unidentified loans to certain unidentified people. He denied before the Grand Jury any work in Miami on that occasion on the memorandum relating to Mr. Edlin or First Colony or the indictment; and yet he has testified here that he did work on the Bridges memorandum and has made no mention in his testimony here of any loan work while he was in Miami.

I submit to you that that admission by Congressman Johnson in this case made possible only because the Government had proved it in its direct case and that Congressman Johnson did not know when he appeared before the Federal Grand Jury that the Government had been able to obtain a copy—a photostatic copy of a letter which appeared in the files of the First Continental Savings and Loan Association, in which Mr. Robinson wrote to Congressman Johnson on March 8, 1961, and referred to the Bridges memorandum and the discussion they had had in Miami and referred to the fact that he was expecting Congressman Johnson to redraft the memorandum which Mr. Robinson had delivered to Congressman Johnson in Miami.

It was only because we found this carbon copy of this letter in the files of the First Continental Savings and Loan Association that the truth of that March meeting in Miami is known to this jury, and I submit to you that Congressman Johnson who said he did not have the original of this letter which was sent to him, in fact, destroyed that letter and the enclosures which came with it once he knew he was under investigation in this case and I ask you to consider whether that is not indicative, Members of the Jury, of his guilt?

It was about this time in early March of 1961 that Congressman Boykin talked to the Attorney General for the first time about so-called "Hoffa matter," the Dranow matter.

[1331] I submit that he was thinking then of the Hoffa swap and he subsequently delivered a memorandum to Mr. Sheridan of the Department of Justice on March 17, 1961.

I invite you to consider, Members of the Jury, what purpose Mr. Edlin thought it would serve to tell Congressman Boykin of this Hoffa-Dranow matter unless it was to be used as bait to hold out to the Department of Justice? What other logical explanation is there for the fact that Mr. Edlin told Congressman Boykin of this particular fact?

Then, in March, 1961 Congressman Johnson knew that a full memorandum would be necessary to present when he and Congressman Boykin went to see the Attorney General. He suggested that Mr. Robinson and Mr. Caudle prepare such a memorandum. This was carefully planned prior to the time they went to see the Attorney General because they knew the Attorney General would ask for such a memorandum once two Congressmen came to his office and made the charges and allegations which they did. Thus it was that Mr. Caudle and Mr. Robinson went to Miami from March 18 to March 22, 1961 to prepare the memorandum which was later delivered to the Department of Justice.

Prior to his testimony in this case, particularly before the Federal Grand Jury, Congressman Johnson denied that he knew that that memorandum had in fact been prepared before March 25, the day of his first visit to the Attorney General, Robert Kennedy.

He tried before the Federal Grand Jury, according to the testimony which was brought out on his cross examination, to disclaim as much knowledge of that memorandum and as much responsibility of that memorandum as he could and I submit to you that this was because he knew that what he was doing was in violation of the law and that he thus sought to distort the true facts.

Here, again, Congressman Johnson did not realize until the Government had put its direct case on, that we had obtained copies of three letters in a series in March 20, 21 and 22, of 1961. from Mr. Robinson to Congressman John-[1332]son enclosing portions of that memorandum sent directly to Congress-

man Johnson from Maimi; as they were hot off the press, they were sent right up to Congressman Johnson for his examination and because carbon copies of these three letters were obtained in the files of the First Continental Savings and Loan Association, the true facts of this are now known to this jury.

I submit to you that with respect to the originals of these documents, also, Members of the Jury, Congressman Johnson destroyed those letters when he knew that he was under investigation and I ask you to consider the motive or the reason for so doing.

The memorandum which Mr. Caudle and Mr. Robinson were working on in Miami and sending portions of that to Congressman Johnson was completed by March 22, 1961 and on that day Congressman Boykin called the Attorney General for the first appointment.

Then there again a series of visits and phone calls and letters were had that continued to flow so far as Congressman Johnson was concerned, until the day he received his last payoff on October 23, 1961, of $3,000 in Traveler's Checks, and continued in so far as Congressman Boykin was concerned up until the time he made several last ditch telephone calls from Mobile, in the months of November and December.

Together the two Congressmen jointly visited the Department of Justice ten times, twice to see the Attorney General, eight times to see the Assistant Attorney General, Mr. Miller; Congressman Johnson visited Mr. Miller alone three times, and the Attorney General once.

Congressman Boykin made two visits by himself to see the Attorney General, a total of sixteen separate visits, ten times or ten occasions of which the two were together.

In addition, the two Congressmen made countless telephone calls to the Department of Justice which you will [1333] recall are all set forth in these two memorandums which were admitted into evidence, the record of the Attorney General's office and the record of Mr. Miller's office of the innumerable contacts which were made with their respective offices.

Congressman Johnson also then sent memorandums which I have referred to and, Congressman Boykin himself wrote five letters either to the Attorney General or to Mr. Miller.

I ask if you do not recall the testimony of the Attorney General of the United States who, on cross examination, stated:

> I do not think that since I have been Attorney General I have had the number of visits and the amount of effort that was displayed in this case.

All the while Congressman Johnson and Congressman Boykin kept Mr. Edlin and Mr. Robinson fully advised, solicited their aid and assistance and planned and plotted with them each step of their respective approaches to the Department of Justice.

I think you will recall now the uncontradicted testimony of Mr. Jackson Rains as to one such meeting which he placed in August of 1961 and which I think you will recall tied in with Congressman Johnson's visit to see Mr. Miller on August 24, 1961, at which time there was a lengthy discussion of the merits of the indictment.

Mr. Rains testified as to a meeting which the Government submits occurred shortly after August 24.

> There was a discussion between Congressman Johnson and Congressman Boykin as to the best approach to Attorney General Robert Kennedy.

Then on behalf of Mr. Edlin and the others under indictment to have the indictment dismissed, he stated what he intended to say, that Mr. Edlin was an honest man.

> [1334] Q. Who is he?—A. Congressman Johnson. That Mr. Edlin was an honest man engaged in an honest effort. He had not intended to defraud any one and that the indictment should be dismissed.
>
> Q. Was there any conversation as to whether they had been to see the Attorney General before that meeting that you were at?—A. I do not recall that. The main conversation was whether or not the two Congressmen would go to see the Attorney General together or separately.
>
> Q. What, if anything, did Mr. Edlin say?—A. Mr. Edlin did not say much but toward the end he stated words to the effect "I have had it. How can I do a job on the land development unless you get this money off my back?"

You recall that Congressman Boykin told the Federal Grand Jury that he boosted the Congressman, Congressman Johnson all that he could when they reported back to Mr. Edlin and Mr. Robinson in order that Congressman Johnson could get

money for his services as a Congressman before the Department of Justice.

Congressman Boykin sent Mr. Edlin copies of letters which he had written to officials in the Department of Justice. He sent copies of those letters to Mr. Edlin. He even sent to Mr. Edlin original letters which he had received in reply from the Attorney General of the United States, from Mr. Miller, and very clearly stated on the top of that letter: "Send to Mr. Kenneth Edlin."

He was showing Mr. Edlin that he was working for him. That he was doing his best and this was concrete evidence of what he was doing before the Department of Justice and what his progress was with their officials.

Now, despite the present protestations, Members of the Jury, from the witness stand of both Congressman Johnson and Congressman Boykin that each advised the Attorney General and the Assistant Attorney General of Con-[1335]gressman Boykin's personal financial interest in the Charles County land and the Congressman Boykin—that Congressman Johnson was acting as counsel for First Continental and First Colony, Charles County and Leisure City—despite their claims on the stand, the Government submits to you that the evidence is clear that such are not the facts.

The Attorney General testified that he had no recollection of any disclosure of Congressman Boykin's financial interests and he was quite positive that Congressman Johnson's alleged status as counsel for anyone or any corporation was never disclosed.

These two Congressmen were not going simply as a land owner and as an attorney, Members of the Jury, both were wearing their Congressional cloaks. If they had any other status when they were before the Department of Justice, they concealed it under their Congressional cloaks. That is one aspect, Members of the Jury, of the type of misrepresentation and fraud which was perpetrated by these men in their relationship with the officials of the Department of Justice.

Congressman Johnson, when he wrote letters to the Department of Justice, never signed those letters, Members of the Jury, as Attorney for anyone or any corporation. He wrote them on the stationery of the Congress of the United States and he signed those letters as Thomas F. Johnson, Member of Congress.

When he submitted a memorandum to the Department of Justice, he did not submit it as Attorney for anyone. He submitted it and signed it as Thomas F. Johnson, Member of Congress. When Congressman Boykin wrote to Mr. Miller and to Mr. Kennedy, he did not sign it in any other capacity except as Frank W. Boykin, Member of Congress.

You will recall also Mr. Caudle's testimony that Congressman Boykin and Congressman Johnson decided before their first visit to the Attorney General to take this matter to the level of the Attorney General for the very reason that they were Congressmen of the United States.

[1336] And Congressman Johnson, himself, prior to his testimony on direct examination in this case consistently denied that he had ever represented First Colony Savings and Loan Association or First Continental Savings and Loan Association and he consistently insisted that when he went to the Department of Justice, he made it quite clear to the Attorney General and to Mr. Miller that he and Congressman Boykin were not there in the interest of any litigant.

His testimony in that regard, Members of the Jury, is quite specific. In his initial prepared statement to the FBI he stated that, referring to his first meeting with the Attorney General on March 25, 1961.

> At this meeting it was made clear to the Attorney General that Congressman Boykin and I were not there in the interest of any litigant.

And when he testified before the Federal Grand Jury he stated:

> I do want to make it clear that I told the Attorney General at that point that Congressman Boykin and I want to make it clear that we were not there in the interest of any litigant.

And he testified further as to his first meeting with Mr. Miller at the very same time:

> At the very first meeting with Mr. Miller, I told him that I wanted it distinctly understood that we were not there in the interest of any litigant. And did not want to interfere in any way with the conduct of his office.

Now, Members of the Jury, how can Congressman Johnson seriously insist or contend that he advised the high officials

of the Department of Justice of his alleged representation of the First Colony Savings and Loan Association, come before those officials and seek a review of a case in which First Colony was a defendant all the time insist-[1337]ing to those high officials that he was not appearing there in the interest of any litigant.

Yet, Members of the Jury, the Government submits that the truth is that both Congressman Johnson and Congressman Boykin were at the Department of Justice in Mr. Edlin's interest and the interest of First Colony Savings and Loan Association with respect to this indictment which was then pending but that they were there as paid Congressmen, Congressmen of the United States who had been paid to go before the Department of Justice in Mr. Edlin's behalf?

Again this is another aspect of the misrepresentation, of the deceit which these Congressmen sought to perpetrate on the Department of Justice, and the fact, Members of the Jury, that Congressman Boykin and Congressman Johnson made it clear as Congressman Johnson stated in his grand jury testimony and in his initial prepared statement, the fact that he made it clear that they were not there in the interest of any litigant, also makes it clear that their purpose in being there was to be there as Congressmen, as impartial public servants, rather than as a private citizen and a lawyer, who had personal and pecuniary interest in the matters which they discussed with the officials of the Department of Justice.

I refer once again to the testimony of the Attorney General who testified that:

> They came, in my judgment and they were there as Congressmen of the United States.

And who testified later.

> But I would say that neither Congressman Boykin nor Congressman Johnson ever said to me that this was a personal matter as they entered the room or in any other visitation did they mention to me that this was other than in their capacity as Congressmen.

And the arguments, Members of the Jury, which they presented to the Department of Justice were Congressional arguments.

[1338] They argued that there had been some sort of prejudice on the part of various Federal officials in bringing this indictment against Mr. Edlin.

They mentioned the Federal Housing Administration as being prejudiced. They mentioned the Post Office Department. They brought to the attention of the Attorney General the alleged prejudice on the part of certain Federally insured savings and loan people, the so-called Vendetta; they brought to the attention of the Attorney General an interest as Congressmen in the prosecution of James Hoffa, a matter which Congressman Boykin correctly characterized as a proposed "swap."

Mr. Edlin's and Mr. Robinson's cooperation in the Dranow matter was conceived by these defendants as good bait which they might arrange to swap for favorable consideration. They brought to the attention of the Department of Justice unemployment problems and urged those officials that a successful development assisted by Mr. J. Kenneth Edlin would be of economic benefit to Congressman Johnson's district and to the State of Maryland.

Finally, Congressman Boykin's letters, Members of the Jury, to the Attorney General and to Mr. Miller, in striking contrast with those which were written to Mr. Pharr and to Mr. Henry Holland in Alabama, indicate clearly that Congressman Boykin never disclosed his personal interest.

As an example, I refer you to Government exhibit 122–A, the letter which Congressman Boykin wrote to Mr. Kennedy on November 6, 1961, a copy of which was sent to Mr. Miller in which he stated on page 4, Members of the Jury, so you can see the facts. "These people that Edlin was agent for sold this property for over $10 million more than they paid for it. Think of the great profit the people in these building and loan companies make out of this loan. I know what I am talking about because Colonel Albert Ernest, one of my associates, sold this property to the Charles County Land Company and the Leisure Land Company for about $10 [1339] million" and I point out to you right there that Congressman Boykin knew all along that the ownership of the Stafford County tract which was purchased by Leisure City Land Corporation was not in Mr. Ernest's name. It was in the name of Tensaw Land and Timber Company and he was misrepresenting the facts as to that right there in his letter to the Department of Justice.

One thing above all in this context is clear, I submit, and that is that Congressman Johnson never went to the Department of Justice as an attorney with regard to the criminal case. Con-

gressman Johnson had never entered his appearance as Attorney of Record in the case by filing such an appearance with the clerk of this court. This was proved by the Court records and by the testimony of the Court Clerk, Mr. Butschky, and I believe this is undisputed.

Secondly, I submit that Congressman Johnson appeared as a Congressman before the Department of Justice, not in the role of an attorney in a criminal case. Based on all of these matters which I have just reviewed, the Government submits that it has proved beyond any doubt that the service which Congressman Johnson rendered to the Department of Justice was the service of a Congressman of the United States, not that of an attorney in a criminal case.

Congressman Johnson has never claimed to have been acting as attorney in the criminal case. He knew there were attorneys for all the defendants in that case. This was apparent when Congressman Johnson cross examined both Mr. Miller and Mr. Kennedy and it was clear from Congressman Johnson's own testimony in this case.

Furthermore, no one told G. C. A. Anderson or Mr. Paul Berman who were the attorneys for Mr. Edlin and First Colony in the criminal case that Congressman Johnson and Congressman Boykin were making visits to the Department of Justice. I am sure you recall, Members of the Jury, Mr. Robinson's testimony, that no one told Mr. [1340] Berman, and you recall the testimony of Mr. G. C. A. Anderson when he testified:

> As a matter of fact, Mr. Anderson, you were never consulted in March of 1961 whether or not it would be wise in the defense of Mr. Edlin to present a synopsis of your defense to the Department of Justice, were you? —A. No, I want to be sure I am right about this. Read that back to me.

[The question was read.]

> No, I was not.
>
> Q. You were never consulted in March of 1961 about any visits which two Congressmen were going to make to the Department of Justice in behalf of your client, were you?—A. I was not.
>
> Q. As a matter of fact, Mr. Anderson, you did not request a meeting with Assistant Attorney General Miller on September 8, you were called by Mr. Edlin at 9 o'clock the evening before and advised that someone

had made an appointment for your to see Mr. Miller the following day, is that not correct?—A. Well, I do not know exactly what time it was but I was called the evening before. I remember I was in bed reading. Why I should remember, I do not know. He asked me if I would go to see Mr. Miller the next day. He said I had an appointment with Mr. Miller. I do not know who made the appointment but I protested originally at going.

Since I represented him and he said an appointment had been made, I did go.

You will also recall the testimony that it was Congressman Boykin who set up an appointment for Mr. Anderson to confer with Mr. Miller.

I submit to you that there was misrepresentation, concealment, fraud and deceit in the appearances made by these two Congressmen to the representatives of the De-[1341]partment of Justice. I submit that they were coming as Congressmen concealing their true personal interest, their true financial interest. They misrepresented the status of the Desser & Garfield negotiations in a memorandum, a short two page memorandum which was sent with covering letter by Congressman Johnson—this bulky exhibit 86 in March of 1961. They told the Department of Justice——

The COURT. Mr. Marion, it is five minutes of one. If you are going to be able to finish within fifteen minutes, I think it would be well to go ahead if you can finish by 1:10. If you can't finish by 1:10, I think you should find a good stopping point.

Mr. MARION. Perhaps it would be better to break. I do not know just how long it will take and I would not want to go past.

Mr. TYDINGS. Let us break, Your Honor.

The COURT. I would rather if you can finish, even by quarter past, I think it is better to give the defendant who will follow you an opportunity to have lunch time to think over the entire speech.

If you think you can finish in twenty minutes, I think that you should try to do so. Let us go on for another ten minutes at any rate and see how near you are. Is that agreeable to the jury?

Go ahead.

Mr. MARION. They claimed in that memorandum, Members of the Jury, for obvious reasons that it was the First Colony Savings and Loan Association, the indicted institution which was the proposed lender of funds to Desser & Garfield in connection with the Charles County Development when in fact, they knew at this time that the principal proposed lender was the First Continental Savings and Loan Association.

I submit to you also that their failure to disclose to the officials of the Department of Justice their receipt of [1342] substantial financial consideration in connection with the very matter about which they were appearing before the Department of Justice constituted a fraud and a deceit and their failure to disclose the promises which had been made to them of additional commissions in the event Mr. Edlin could sell these two tracts to any of several developers, a prospect which appeared directly affected by the pending First Colony indictment.

I submit to you that Congressman Johnson was in fact willing to deceive the Federal Bureau of Investigation when he submitted to the Federal Bureau of Investigation this letter dated August 25, 1960. When he submitted to the Federal Bureau of Investigation these two letters of May 22 and October 16, 1961. I submit to you, Members of the Jury, that these were hastily prepared carbon copies of letters solely for the purpose of indicating the facts contained in the text of these two letters. Look at each of the letters, if you will and examine them. You will see that the date at the top of each letter, the number 1 is not typed by an experienced typist such as Congressman Johnson had employed in his Congressional office.

The ones are capital "I's" instead of being 1's, and both of them are the same way. Both of them are identical in that obvious typing error and both of them completely self-serving from Congressman Johnson's standpoint.

Attempting to show that the money he was getting was supposed to be coming from Escrow accounts, and I submit to you that both of these letters were prepared at exactly the same time and they were prepared well after the date of the last letter, October 16, 1961.

I submit that these letters were deceptive and were given to the FBI for the purpose of indicating facts which did not exhibit and I think it is significant, Members of the Jury, that

these two letters are the only evidence which even tend to indicate that Congressman Johnson wrote to Mr. Robinson in the entire year of 1961 and when we chal-[1343]lenge these letters, Members of the Jury, you will recall that neither Congressman Johnson could produce or would produce the original carbon copy of it, of either one of these letters, nor did Mr. Robinson produce when he took the stand what would have purported to be the original to him of each of these letters.

I submit that Congressman Johnson was willing to deceive the FBI when he submitted this document, a hand-written note from Mr. Robinson, to indicate apparently that it was written on October 25, 1961 when it in truth was written when he returned in December or in early January after his trip abroad when he knew that he was under investigation.

Likewise the letter of December 28, Members of the Jury, to Ashby, which enclosed a check bearing the same date, but which was in fact mailed on January 8, 1962 after Congressman Johnson knew he was under investigation.

I submit to you that he realized then that he had better do something to explain to them these checks he had gotten and he figured that the best way at that time, even though a personal sacrifice financially to himself, was to send off $4,400 to Mr. Ashby as quickly as he could. He back dated the letter even though he tried to tell you it was typed and dictated on the 23rd of December and dated ahead to December 28.

I submit that this letter was written in 1962, shortly before it was mailed on January 8, 1962, from Baltimore, and I submit to you further, Members of the Jury, that Congressman Johnson was willing to deceive the Grand Jury before which he appeared and testified under oath. His testimony before the Grand Jury, the Federal Grand Jury, was in startling contrast as you heard from the witness stand when he was cross examined, to the testimony which he gave on direct examination at this trial, and I submit to you that Congressman Johnson even was willing to make an effort to deceive you, the Members of this Jury, when he produced piles of documents, many of which he [1344] did not know where they had come from and on which he had scribbled penciled notations with the obvious inference of letting you conclude that those penciled notations had in fact been put on there at the time he allegedly was doing his purported legal work. And I call your attention specifically to Government Exhibit 181–A, this photostatic copy of the

purchase money mortgage on which he allegedly worked and which it was shown was doctored by handwriting after he had given a photostatic copy of this particular document to the FBI in January of 1962.

Yet, his review of his—if such were made, would have been in 1961. And I ask you Members of the Jury, what did he wish you to conclude when after the fact he wrote on this document, "Bill," obviously referring to Mr. Robinson, "Frank wants the timber exception to remain same. Find out if there is a sale timber agreement existing."

This was one of many such notations you recall, and I submit to you that by these notations he was willing to deceive this jury. And I submit to you that if he was willing to deceive this jury, and the grand jury and the Federal Bureau of Investigation, he would have been quite willing to deceive the Attorney General of the United States and to deceive the Assistant Attorney General of the United States in order to secure a dismissal of an indictment against a man who was paying him substantial sums of money.

Members of the Jury, the defendant Edlin has presented no defense in this case. He has presented no evidence to contradict the charges against him. He has produced no evidence to deny numerous statements made by many, many government witnesses. He has produced no evidence to deny the testimony of numerous witnesses of his various activities which clearly indicate beyond any doubt, Members of the Jury, his guilt of the charges in this indictment.

Congressman Boykin's defense, Members of the Jury, is or has been a subterfuge, a smoke screen, an attempt to [1345] divert the eyes of this jury from the real issues in the case. And I submit to you that if Congressman Boykin had been engaged in activities of that sort for 28 years as he testified on the stand in this case, it is high time it stopped. The activities in which he engaged in 1961, Members of the Jury, were in blatant disregard, in clear violation of the laws under which he is being prosecuted in this case.

Congressman Johnson's defense, Members of the Jury, in which Mr. Robinson assisted and testified and was an integral part, was a sham. I submit to you that it was a clearly beyond-any-doubt display of meeting the Charges of a conflict of interest by Congressman Johnson, by a conflict of testimony. He met the charge of the conspiracy to defraud the United States

by seeking to perpetrate a fraud upon you, Members of the Jury, and upon this very Court. I submit to you that Congressman Johnson's defense is wholly incredible and totally unworthy of your belief.

I invite you to ask yourselves, Members of the Jury, whether or not the activities of all four of these defendants, based upon the testimony which you have heard for the past ten and a half weeks ought not truly to be characterized as shocking.

Ladies and Gentlemen of the Jury, your obligation is to do justice to the four defendants in this case and you have an equal obligation to do justice to all of the people of the United States. We are proud of the Credo of the Department of Justice, its definition of Justice inscribed in its halls in Washington, "That the Innocent shall not suffer and that the guilty shall not escape."

The Government asks the members of the Jury that you do justice in this case.

Thank you.

* * * * *

[1346] ARGUMENT BY COUNSEL DURING POST-TRIAL PROCEEDINGS ON AUGUST 6, 1963 ON ALLEGED IMPROPER COMMENT BY PROSECUTOR IN OPENING SUMMATION

Mr. DOUB. I will pass on to the vilification of Johnson by Government counsel which we deem to be most improper and very prejudicial to Johnson.

Now, Your Honor, Mr. Marion charged Mr. Johnson with the deliberate destruction of three letters in March of 1961, from Robinson to Johnson, and with the fabrication of two letters in May and October.

The COURT. It was the fabrication of two.

Mr. DOUB. Yes.

The COURT. You said three.

Mr. DOUB. The destruction of three.

The COURT. And the fabrication. May I correct that because I looked at page ten and fabricated three dated August the twenty-fifth 1960, the middle one, there was no charge of fabrication. The middle one was used as proof that the other two were fabricated.

Mr. TYDINGS. That's right, Your Honor.

Mr. DOUB. Yes.

Now, Your Honor, these were very serious charges; they were not within the scope of the indictment, and as a matter-of-fact, just to give you an idea of what this is about, let us take the charge by the Government.

The COURT. Well, what page is that? What page of the transcript?

Mr. DOUB. Let's take the charge by the Government that Johnson destroyed these letters. Johnson had testified that he had received the letters. He testified he received the letters, so there is no issue in the case as to whether he had received them or not. If he had denied receiving them——

The COURT. What page is that? What page are you talking about?

[1347] Mr. DOUB. Mr. Marion's argument you mean?

The COURT. Yes. You gave no record reference to it.

Mr. DOUB. I have it here, Your Honor. On the question of the transcript, it's on 5885, Your Honor, and 5896.

I did not feel that was proper argument, Your Honor. The Government had plenty to talk about in this case without resorting to that, and in that connection, Your Honor, Mr. Marion made many misstatements of fact to the jury, many. With that background I call Your Honor's attention to——

The COURT. Well, I didn't notice them as they went along and you didn't call my attention to them as they went along to ask me to correct them.

I thought he made an extremely careful and accurate argument.

Mr. DOUB. Your Honor, you will recall I did move for a mistrial upon the conclusion of his argument by reason of these charges.

Now, the second statement he made on the fabrication of letters to the F.B.I., you will find it on 5912 and 5913.

Your Honor might be interested to know that in *Wilson* v. *United States* in 162 U.S. 613, 621, the Supreme Court said the destruction, suppression, or fabrication of evidence undoubtedly gives rise to a presumption of guilt to be dealt with by the jury.

Judge Learned Hand in referring to comparable statements of Wigmore said that the fabrication of evidence is strong evidence of guilt.

Now, Your Honor——

The COURT. Mr. Johnson didn't admit having received

them until after they had been proved and after they had been discovered in the file of the First Continental; isn't that right?

Mr. DOUB. Well, Your Honor, he never had a chance; he was never on the stand.

[1348] The COURT. He was before the grand jury. That is the comment that was made, the comment was made of his failing to——

Mr. TYDINGS. Yes, sir.

The COURT. In his previous——

Mr. TYDINGS. Yes.

The COURT. His previous interviews with the F.B.I.

Mr. TYDINGS. He was specifically asked about it before the grand jury.

Mr. DOUB. Well, the second point on the alleged manufacture of those two letters, Your Honor, the Government asked Johnson on cross-examination if he hadn't made up those letters, and he said no, and they had not been put in evidence in Johnson's case in chief.

The Government then showed him thermofax copies of two letters and said, "Didn't you give these to the F.B.I.?" And he said yes.

And then they said, "Isn't it a fact that they were not bona fide letters," in effect, I don't recall his exact language, and he said yes they were.

The COURT. You mean "yes, they were bona fide"?

Mr. DOUB. Yes.

The COURT. He did not admit that they were not bona fide.

Mr. DOUB. Yes. Your Honor, I couldn't object to a question like that because the objection would have been more horrible. I couldn't possibly object to it; but the Government then never followed it up. I thought perhaps the Government is going to try to show or try to offer some evidence of impropriety of what they had accumulated, but they didn't do it, and then in argument—

The COURT. Well, before argument, there is something else, Mr. Doub. I ruled that I thought that there was in-[1349]herent evidence in the letters themselves which showed that they had not been typed by the person who was purported to have typed them.

Mr. DOUB. No, Your Honor, I don't recall that.

The COURT. And I told you that right in my office one morning when you came in to ask me about it.

Mr. DOUB. Is that in your charge, Your Honor?

The COURT. No, it isn't. You came to my office one morning with those letters to get a copy of them and said something about them and said you thought it was an outrage and I told you that I thought that it was abundant evidence that they had been fabricated right in my office that morning when you came in to get them, that is, right at the time.

The Government made the argument then and they pointed out that the "i's" instead of "ones", and the whole thing.

Mr. DOUB. Yes, the whole argument, the whole argument, Your Honor.

The COURT. Yes, that's right.

Mr. DOUB. And we have submitted an affidavit of the secretary as to her conversations with Government counsel and attached them.

Now, Mr. Tydings and I, he wrote me a letter indicating that he took exception to that.

The COURT. That's right.

Mr. DOUB. And he and I are going to see if we can work out a stipulation, Your Honor, as to what are the accurate facts so that there can be no question about it.

Mr. TYDINGS. If you withdraw the affidavit.

Mr. DOUB. No.

Mr. TYDINGS. We are going to submit as part of the [1350] record by letter to you of July thirtieth and the letter which you wrote back to me, Mr. Doub.

The COURT. You want to put them in?

Mr. TYDINGS. Yes, I would like to at this time, Your Honor. First is the letter——

The COURT. Let's get it clear. I don't see any use in bringing them in here.

Mr. TYDINGS. No. I ask, Your Honor, that the letter dated July 30, 1963 from myself to Mr. George Cochran Doub with copies to Your Honor, Mr. Williams, Mr. Genn, and Mr. Robinson be offered as the Court's Hearing Exhibit at this time together with a letter dated August first from Mr. Doub to myself, with copies also to the same individuals be also marked as a Hearing Exhibit at this time.

Mr. DOUB. Your Honor, I promised Mr. Tydings and defense counsel that I would not take more than an hour. So, I am going to——

The COURT. First, do you object to these letters being introduced, Mr. Doub?

Mr. DOUB. No, indeed, Your Honor.

The COURT. All right.

The CLERK. Court Hearing Exhibits 1 and 2.

[Above-entitled letters were marked Court Hearing Exhibits 1 and 2.]

Mr. WILLIAMS. Now, Your Honor——

The COURT. May I just read this?

Mr. WILLIAMS. Yes, sir. Excuse me.

The COURT. All right.

Mr. WILLIAMS. I don't think that any of the arguments that have been made to you heretofore have become more cogent or persuasive with the passage of time, and I don't [1351] intend to repeat a lot of argumentations that you have heard before, before trial, during trial, and finally just before the case went to the jury.

I don't intend either, Your Honor, to argue matters

* * * * *

The COURT. It can't be considered as a fact unless you will swear it is a fact.

Mr. TYDINGS. We don't offer it as a fact. We merely say that we are prepared if necessary to prove it.

The COURT. How can I consider it except as argument if it is in the record in some way?

Mr. TYDINGS. Well, if you consider the affidavit——

The COURT. You can attach affidavits to motions here.

Mr. TYDINGS. But the purpose of an affidavit is to bring something to the attention of the Court to bring on a hearing where testimony can be taken and the witness cross-examined.

The COURT. All right.

Mr. TYDINGS. And we merely want to make certain that this is clear so that the Court will see this in connection with the affidavit, in connection with the letter, and that is all; so that they will see the whole picture.

The COURT. Well, now; let's see. You say when Johnson first attacked the prosecutor's argument in his motion on June 12th that he was given an opportunity to make a proffer of what Miss Fermoyle had advised him with respect to these two letters.

Is that a matter of record?

Mr. TYDINGS. Yes, sir.

Mr. DOUB. No.

The COURT. Then I think that this much of your answer [1352] ought to be supported by affidavit of somebody on the Government's side as a fact.

Mr. TYDINGS. All right.

The COURT. Except so far as they are in the record. Then I can consider your affidavit as a counter affidavit to Mr. Doub's.

Mr. TYDINGS. All right. Then we will file counter-affidavits.

The COURT. Well, what you are going to say is, just what is on page 9 and 10.

Mr. TYDINGS. That is right.

The COURT. All right, and the top two lines on 11.

Mr. TYDINGS. That is right.

The COURT. Well, you can swear to them. Who is going to make the affidavit?

Mr. TYDINGS. Mr. Weiner.

The COURT. Stand up. Are you prepared to swear to this? Have you read them?

Mr. WEINER. Yes, but I would like to read them again.

The COURT. You would like to read them again——

Mr. WEINER. Yes.

The COURT. To see if you are prepared to make an affidavit to the facts beginning at the bottom of page 9 and running to the top of page 11?

Mr. TYDINGS. Your Honor, the only objection is this, that I don't have or don't think we have to make any affidavits to begin with, and I think the way to handle it is that we have a hearing, and I don't think these should be part of the record.

The COURT. All right. Hold up your right hand and make the affidavit.

[1353] In the presence of Almighty God, do you declare that the facts set out in the Government's memorandum in opposition to the motion of all the defendants for judgment of acquittal notwithstanding the verdict or in the alternative for a new trial, beginning on the middle of page 9 and running through——

Mr. DOUB. Your Honor——

The COURT. Through the second line——

Mr. DOUB. It begins on page 10, and that is just argument.

The COURT. It begins: "When Johnson first attacked the prosecutor's argument, he was given an opportunity."

You say that is not a matter of record?

Mr. DOUB. Your Honor, can he swear to such a statement as that?

The COURT. Is it a matter of record or isn't it? I don't know.

Mr. WEINER. I think it is, Your Honor.

The COURT. If it is a matter of record, then no affidavit is necessary; if it is not a matter of record, I think it ought to be.

Mr. DOUB. What does it mean? Your Honor, there are statements here that honestly are not susceptible of being sworn to, that "he was given an opportunity."

The COURT. All right; then stop that and let's us just have that beginning at the first paragraph on page 10 and running through to the first two lines on page 11, that Mr. Weiner is swearing that the facts beginning at the first paragraph on page 10 through the second line on page 11 are true.

Mr. DOUB. Your Honor, I was wondering——

Mr. WEINER. I will so swear.

[1354] Mr. DOUB. If you would give us an opportunity to try to work out a stipulated statement of facts. There are things here that are so general that—

The COURT. What it comes down to, Mr. Doub, as I understand it, is this: This lady, who is Mr. Johnson's secretary, whom you did not call and whom the Government did not call, is not prepared to swear that she typed those letters.

I gather that the substance of it is that since her initials appear on the bottom and since she has no recollection one way or the other, in the normal course of business she would think that she did prepare them but that she has no personal recollection of having typed them.

Now, isn't that about what it comes to?

Mr. DOUB. Well, Your Honor emphasized an aspect most favorable to the Government; but the other aspect was that though she could not tell, could not say to Mr. Tydings that she had not typed them.

The COURT. I think that ought to be added into the findings of fact, and I will not make this finding of fact, that after having examined the letters, the two challenged letters and the one authentic letter along with the others, I find that there is abundant evidence inherent in the letters themselves to support the charge that they were not typed by Miss Fermoyle; and if I have to make a finding of fact I will find as a fact that they were not typed by her but that they were typed by somebody

else; and I will make the further finding that in view of all the testimony with respect to them, in view of all the letters themselves, and the inferences which may be drawn from the letters themselves, that if Miss Fermoyle testified as I have just found based upon this kind of informal agreement as to what her testimony amounted to, it would not have affected the verdict of the jury in this case and would not have had any substantial influence on the verdict of the jury on any of the counts.

* * * * *

[1355] In the United States Court of Appeals for the Fourth Circuit

No. 9223

UNITED STATES OF AMERICA, APPELLEE

v.

THOMAS F. JOHNSON, J. KENNETH EDLIN, AND WILLIAM L. ROBINSON, APPELLANTS

Appeals from the United States District Court for the District of Maryland, at Baltimore—Roszel C. Thomsen, District Judge

Argued April 16, 1964

Opinion filed and entered—September 16, 1964

Before SOBELOFF, Chief Judge, HAYNSWORTH, Circuit Judge, and BUTZNER, District Judge

George Cochran Doub (Weinberg & Green on brief) for Appellant Thomas F. Johnson; *William L. Robinson*, pro se; and *Eugene Gressman* and *Edward L. Genn* (Brown, Genn & Brown on brief) for Appellant J. Kenneth Edlin, and *J. Hardin Marion, III*, Special Assistant United States Attorney, and *Arthur L. Burnett*, Attorney, Department of Justice (*Robert W. Kernan*, First Assistant United States Attorney, and *David Ellenhorn*, Attorney, Department of Justice, on brief), for appellee.

[1356] SOBELOFF, *Chief Judge:* Two members of the United States Congress and two other persons were jointly indicted for violations of both the conspiracy statute, 18 U.S.C.A. § 371, and the conflicts of interest statute, 18 U.S.C.A.

§ 281.[1] After a jury trial the four defendants were convicted. One, Frank W. Boykin, a Representative from Alabama, paid his fine and has not appealed. This is the appeal of Representative Thomas F. Johnson of Maryland, and J. Kenneth Edlin and William L. Robinson.

The indictment was in eight counts. The first charged a conspiracy "to defraud the United States * * * (a) Of * * * its right to have * * * the official business of the Department of Justice, conducted honestly * * *. (b) Of * * * its right to have * * * personnel of the Department of Justice, free * * * of * * * unlawful, improper and undue pressure * * *. (c) Of * * * its right to have the lawful functions and duties of the defendants Thomas F. Johnson and Frank W. Boykin * * * free from corruption * * *. (d) Of * * * its right not to be deprived of the faithful, loyal and conscientious services of the defendants Thomas F. Johnson and Frank W. Boykin * * *."[2] This count alleged that as part of the conspiracy Johnson was paid to make a speech in Congress and to persuade officials of the Department of Justice to cause the postponement and eventual dismissal of a criminal action then pending against Edlin.

[1357] The remaining seven counts charged Johnson with the substantive offenses of receiving payment for representing Edlin before the Justice Department. 18 U.S.C.A. § 281. In these counts Robinson and Edlin were charged as aiders and abettors.

I. The Indictment

A. First Count—Conspiracy

The appellants attack the validity of count one on two broad fronts. First, they say that in general conspiracy indictments should not be tolerated because of the abuses which they engender. Second, they contend that this particular indictment is defective in a number of ways.

1. Alleged Invalidity of Conspiracy Indictments

The appellants' criticism of conspiracy indictments is not wholly without foundation. They are not the first to express the view. Similar statements can be found in concurring and dissenting opinions in the Supreme Court and in a number of

[1] See pre-trial opinion of District Court, *United States* v. *Johnson*, 215 F. Supp. 300 (D. Md. 1963).

[2] Paragraph 14, subparagraphs (a) to (d) of the indictment.

Law Review articles. *Krulewitch* v. *United States*, 336 U.S. 440, 445–48 (1949); *Kotteakos* v. *United States*, 328 U.S. 750, 760–74 (1946). Goldstein, "Conspiracy to Defraud the United States," 68 Yale L.J. 405 (1958). The dragnet effect of conspiracy indictments, their sometime indiscriminate use and the unfair advantage they may give to the prosecution in respect to evidence and proof are well known. While this is true, the Supreme Court has not said that conspiracy indictments as such are improper; convictions based upon them have been repeatedly upheld. The net effect of the Court's expressions of concern is an [1358] admonition to scrutinize carefully the allegations of such indictments and the proof adduced in their support.

2. *Specific Attacks on First Count*

a. *Vagueness and indefiniteness.*—The appellants insist that count one is indefinite and vague and fails to inform them of the charge alleged. Our reading of the count does not confirm this contention. The count alleges a conspiracy "to defraud the United States." Subparagraph (a) to (d) of paragraph 14, summarized above, enumerate four governmental functions and rights which are alleged to have been defrauded. It was not necessary to allege that the Government had been defrauded of money or property. Section 371 has consistently been interpreted to support an indictment charging that a lawful function of the Government has been interfered with or obstructed. *Hammerschmidt* v. *United States*, 265 U.S. 182 (1924); *Curley* v. *United States*, 130 Fed. 1 (1st Cir.), *cert. denied*, 195 U.S. 628 (1904); *Haas* v. *Henkel*, 216 U.S. 462 (1910).

Paragraphs 15 to 25 of count one state the objects and purposes of the conspiracy. Thereafter 75 overt acts are alleged. Contrary to the appellants' contentions, the indictment did not give the Government carte blanche to introduce evidence and frame any imaginable purpose of the conspiracy. In plain and concise language the paragraphs 15 to 25 effectively define the objects and delineate the proof. This is all that Rule 7(c) [3] of the Rules of Criminal [1359] Procedure requires. See *May* v. *United States*, 175 F. 2d 994 (D.C. Cir.), *cert. denied*, 333 U.S. 830 (1949); *United States* v. *Manton*, 107 F. 2d 834 (2d Cir. 1938), *cert. denied*, 309 U.S. 664 (1940).

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[3] "7(c) The indictment * * * shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. * * *"

b. *Duplicity.*—Because count one alleges both Johnson's speech *and* his discussions with members of the Justice Department, the appellants maintain that it is duplicitous. The short and, we think, sufficient answer is that the indictment charges only one conspiracy—to defraud the United States—and this is not changed by the assertion of more than one means used to accomplish the object. "The conspiracy is the crime, and that is one, however diverse its objects." *Frohwerk* v. *United States*, 249 U.S. 204, 210 (1919).[4]

c. *Alleged insufficiency of allegations charging fraud.*—We must also reject the argument that count one was fatally defective because it failed to charge any false statement, misrepresentation or deceit. In *Hammerschmidt* v. *United States*, 265 U.S. 182, 188 (1924), the Supreme Court defined the word "defraud" as used in what is now section 371:

> To conspire to defraud the United States means primarily to cheat the Government out of property or money, but it also means to interfere with or obstruct one of its lawful governmental functions by deceit, [1360] craft or trickery, *or at least by means that are dishonest* [emphasis added].

Since *Hammerschmidt*, numerous cases have held that the payment of money by a private person to an official of the Government for the performance of an official act constitutes a fraud. *United States* v. *Manton*, *supra*; *Glasser* v. *United States*, 315 U.S. 60 (1942); *May* v. *United States*, *supra*; *United States* v. *Bowles*, 183 F. Supp. 237 (S.D. Me. 1958). *Glasser* really closed the debate. There the Court, citing *Hammerschmidt*, said:

> The indictment charges that the United States was defrauded by depriving it of its lawful governmental functions by dishonest means; it is settled that this is a "defrauding" within the meaning of [section 371] of the Criminal Code. 315 U.S. at 66.

The indictment in paragraphs 15 to 25 explicitly stated that it was a part of the conspiracy for appellant Johnson to receive compensation from appellants Edlin and Robinson. Manifestly this is a "dishonest means," in the *Hammerschmidt*

[4] See also *United States* v. *Manton*, *supra*, and *May* v. *United States*, *supra*, where the same contention was raised and rejected.

phrase, and is sufficient to support an indictment under section 371.

d. *The alleged impossibility of defrauding the Justice Department.*—Appellant Edlin contends that the conspiracy count must fail because it was impossible to defraud the United States in connection with the criminal charge pending against him. His position is that it was not within the power of the Department of Justice to effectuate a postponement of the trial or a dismissal of the indictment, because that power [1361] was solely in the court. The argument is specious: It is true that the court's consent would be required to dismiss a pending charge, Rule 48(a), Fed. R. Crim. P., but in a practical sense, as the Department is in charge of the prosecution, its decision to postpone a trial, or even to abandon a case, has great, if not decisive, influence with the court.

e. *Congressional privilege.*—Appellant Johnson's principal contention is that insofar as the indictment questions his motivation in making a speech on the floor of the House, it contravenes Article I, section 6 of the Constitution.

> The Senators and Representatives shall receive a Compensation for their services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; *and for any Speech or Debate in either House, they shall not be questioned in any other Place*" (emphasis added).

This is the first case, within our knowledge, squarely raising the question whether the congressional privilege deprives a court of jurisdiction to try a member on a criminal charge of accepting money to make a speech in the House of which he is a member.

The history of the parliamentary privilege is a long and turbulent one, developed in the course of conflict between Parliament and the Crown as to the proper subjects of [1362] discussion on the floor of Parliament.[5] The Crown asserted that matters then under debate in Parliament were within the

[5] See generally May, Treatise on the Law, Privileges, Proceedings and Usage of Parliament (16th ed. 1957); Wittke, The History of English Parliamentary Privilege (Ohio State University 1921).

King's prerogative, while Parliament insisted that it was protected by the privilege. Particularly disconcerting to the Crown was Parliament's intrusion into matters affecting the succession and into questions of religion. During the reigns of both Queen Elizabeth and James I the Crown resisted Parliament's expansion of its independence. More than once, members of Parliament were committed to the Tower.[6]

The accession of Charles I brought continued conflict.[7] In 1629 three members of the House of Commons, Sir John Elliot, Denzill Holles and Benjamin Valentine, when arrested and prosecuted for libelous and seditious speeches, pleaded to the jurisdiction of the court. They maintained that they were punishable, if at all, only in Parliament. The King's Bench rejected their plea and convicted them, Judge Sir William Jones observing: "We are the judges of their lives and lands; therefore of their liberties." 3 Howell, State Trials, 296, 306. The decision was very unpopular and contributed to the eventual downfall of Charles.[8]

[1363] Immediately after the Revolution of 1688, Parliament enacted the Bill of Rights containing the following declaration: "[T]hat the freedom of speech, and debates, and proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament." Since then the privilege of speech and debate has never been questioned or denied.

The scope of the privilege is demonstrated in the English case, *Ex parte Wason*, 4 Q.B. 573 (1869). There the English court held that a conspiracy by a number of persons, including members of the House of Lords, to make false statements in the House was not an offense at law, because the courts were powerless to question the motives and intentions of members when speaking before the Parliament.

In the landmark case of *Stockdale* v. *Hansard*, 9 Adolphus & Ellis 1 (1839), Lord Denman described the privilege, by then fully developed, in these words:

> The privilege of having their debates unquestioned, though denied when the members began to speak their

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[6] Taswell-Langmead, English Constitutional History from the Teutonic Conquest to the Present Time, 249 (11th ed. 1960).

[7] Chrimes, English Constitutional History, 151–53 (2d ed. 1953).

[8] Wittke, *op. cit. supra*, n. 5.

> minds freely in the time of Queen Elizabeth, and punished in its exercise both by that princess and her two successors, was soon clearly perceived to be indispensable and universally acknowledged. By consequence, whatever is done within the walls of either assembly must pass without question in any other place. For speeches made in Parliament by a member to the prejudice of any other person, or hazardous to the public peace, that member enjoys complete impunity. For every paper signed by the speaker by order of the House, though to the last degree calumnious, or even [1364] if it brought personal suffering upon individuals, the speaker cannot be arraigned in a court of justice. But if the calumnious or inflammatory speeches should be reported and published, the law will attach responsibility on the publisher. So if the speaker by authority of the House order an illegal act, through that authority shall exempt him from question, his order shall no more justify the person who executed it than King Charles's warrant for levying ship-money could justify his revenue officer.

Early in the history of the American colonies, the privilege of speech was recognized,[9] and many of them placed it in their constitutions when they achieved independence.[10] "The provision in the United States Constitution was a reflection of political principles already firmly established in the States." *Tenney* v. *Brandhove*, 341 U.S. 367, 373 (1951).

In an 1808 Massachusetts decision by the highest court of that state,[11] subsequently characterized by the Supreme

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[9] Clarke, Parliamentary Privilege in the American Colonies, 71 (1943).

[10] See, *e.g.*, Maryland Declaration of Rights, Nov. 3, 1776 ("That freedom of speech, and debates or proceedings, in the legislature, ought not to be impeached in any other court or judicature."); Massachusetts Constitution of 1780, Art. VIII ("The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action, or complaint, in any other court or place whatsoever."); New Hampshire Constitution of 1784, Part 1, Art. XXX ("The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.").

[11] *Coffin* v. *Coffin*, 4 Mass. 1 (1808).

[1365] Court of the United States as an authoritative description of the constitutional provision, Chief Justice Parsons wrote:

> These privileges are thus secured, not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I, therefore, think that the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate, but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature and in the execution of the office. And I would define the article as securing to every member exemption from prosecution for everything said or done by him as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular, according to the rules of the House, or irregular and against their rules. I do not confine the member to his place in the House; and I am satisfied that there are cases in which he is entitled to this privilege when not within the walls of the representatives' chamber.

What we derive from this historical review of the congressional privilege is a firm conviction that the constitutional provision is to be interpreted liberally and not narrowly. We also conclude that the general test to be applied where the privilege is asserted is that whenever the motivation for making a speech is called into question, the [1366] privilege applies. Two leading Supreme Court opinions confirm this view.

Kilbourn v. *Thompson*,[12] decided in 1880, held, among other things, that a congressman who initiates, supports and votes for a resolution calling for the arrest of another person cannot be questioned in court in a suit for malicious prosecution. In 1951, *Tenney* v. *Brandhove*[13] confirmed *Kilbourn's* holding that the courtroom is not the proper place to question the mo-

[12] 103 U.S. 168 (1880).
[13] 341 U.S. 367 (1951).

tives of legislators where they are acting within their traditional sphere. Justice Frankfurter, speaking for the Court, said:

> *The claim of an unworthy purpose does not destroy the privilege.* Legislators are immune from deterrents to the uninhibited discharge of their legislative duty, not for their private indulgence but for the public good. One must not expect uncommon courage even in legislators. The privilege would be of little value if they could be subjected to the cost and inconvenience and distractions of a trial upon a conclusion of the pleader, or to the hazard of a judgment against them based upon a jury's speculation as to motives. The holding of this Court in *Fletcher* v. *Peck*, 6 Cranch 87, 130, that it was not consonant with our scheme of government for a court to inquire into the motives of legislators, has remained unquestioned." 341 U.S. at 377 (emphasis added).

Equally broad is the textwriters' description of the [1367] privilege.[14] While none of them treats directly the question before us, the language of each is unequivocal in attributing to the constitutional provision wide and almost absolute scope.

What we have said thus far is, we think, generally accepted. The question with which we are faced is whether these general principles become inapplicable when bribery is a motivating factor for making a speech in a legislative chamber. The Australian courts have considered the effect of the privilege where criminal prosecutions were brought against legislators for taking bribes to cast their votes and held that the privilege

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[14] 1 Blackstone, Commentaries, 164 (Cooley, 4th ed. 1899); 2 Cooley, Constitutional Limitations, 929 (8th ed. 1927); Cushing, Legislative Assemblies, § 601 (2d ed. 1866) ("[I]n short, * * * the privilege in question secures the members of a legislative assembly against all prosecutions, whether civil or criminal, on account of any thing said or done by them, during the session, resulting from the nature and in the exercise of their office."); De Lome, The Constitution of England, 66 (5th ed. 1885); 2 The Works of James Wilson, 37–38 (1896); Schwartz, A Commentary on the Constitution of the United States, 104 (1963); 1 Story on the Constitution, § 866, p. 600 (3d ed. 1858) ("The next great and vital privilege is the freedom of speech and debate, without which all other privileges would be comparatively unimportant or ineffectual."); 1 Willoughby, The Constitution of the United States, § 233 (1910).

did not protect accused legislators. *Regina* v. *White*, 13 S.C.R. (N.S.W.) 332 (1875); *Rex* v. *Boston*, 33 C.L.R. 386 (1923). See also the Canadian case of *Regina* v. *Bunting*, 7 O.R. 524 (1885). These cases are not binding on us but we consider them, especially as they bear on the historic concept of the privilege.

While it is true that count one of the indictment alleges a "conspiracy to defraud the United States" and not bribery, the District Court, by citing federal and state statutes which [1368] make the acceptance of a bribe a criminal act, recognized the close relation between the two.[15] The District Judge also noted that in no instance has the constitutionality of either the federal or a state bribery statute ever been questioned. Reasoning by analogy from these statutes and the state cases decided under them—which do not, however, discuss the constitutional question—the Judge concluded that "the prosecution of a Member of Congress for receiving money from a private person for making a speech on the floor of the House would not be barred by Art. I, sec. 6, cl. 1 of the Constitution." 215 F. Supp. 300, 307 (D. Md. 1963).

Basic to the conclusion of both the District Judge and the Government is the reasoning that "[t]o hold Count One of the present indictment barred by the privilege would subvert rather than advance the purpose for which the privilege exists—*the independence of the legislator in the fulfillment of his public trust.*" 215 F. Supp. at 307 (emphasis added). It would be less than candid to deny the appeal of this reasoning, for one readily perceives a difference between fearless speech and corrupt speech, but after deliberate consideration we must reject the District Court's conclusion.

Inevitably, the indictment required an inquiry into Johnson's reason for delivering the speech, the very inquiry which the Supreme Court has explicitly declared to be beyond a court's power. *Tenney* v. *Brandhove*, 341 U.S. 367 (1951). The contents of the speech as such were not challenged. In fact the indictment attacked only the purpose [1369] for which the speech was made, *i.e.*, "to defraud the United States." To prove this, however, the speech in its entirety was introduced into evidence and was commented upon extensively by the prosecu-

[15] *United States* v. *Johnson*, 215 F. Supp. 300, 306 n. 6 (D. Md. 1963).

tion during the trial and in the closing arguments. Since Johnson could not deny making the speech it naturally became necessary for him to demonstrate that his purpose for delivering it was good. But the Supreme Court has declared in *Tenney* that "[t]he claim of an unworthy purpose does not destroy the privilege." 341 U.S. at 377. The speech was more than an incidental feature of the conspiracy charged. Fully one-half of the testimony introduced at the trial related to the speech.

Federal cases discussing the privilege have repeatedly held that the good or bad faith of the member making the speech is immaterial. Indeed this is precisely the teaching of *Tenney*. In *Cochran* v. *Couzens*, 42 F. 2d 783 (D.C. Cir.), *cert. denied*, 282 U.S. 874 (1930), for example, the complaint alleged that a Senator "[m]aliciously, wilfully, falsely and wrongfully" delivered a "scandalous, malicious and defamatory slander" in a speech on the floor of the Senate. In affirming the District Court's dismissal of the complaint, the court held that "the words forming the basis of plaintiff's action were uttered in the course of a speech in the chamber of the Senate of the United States, and were *absolutely privileged* and not subject to 'be questioned in any other place.'" 42 F. 2d at 784 (emphasis added). The court added:

> It is manifest that the framers of the Constitution were of the view that it would best serve the interests of all the people if members of the House and Senate were permitted unlimited freedom in speeches or debates. The provision to that end is, therefore, grounded [1370] on public policy, and should be liberally construed. Presumably legislators will be restrained in the exercise of such a privilege by the responsibilities of their office. Moreover, in the event of their failure in that regard, they will be subject to discipline by their colleagues. Article 1, § 5. 42 F. 2d at 784.

See also *Barsky* v. *United States*, 167 F. 2d 241 (D.C. Cir. 1948).

Couzens, we note, was a civil action, but it would be inconsistent to conclude that a corrupt speech is less within the congressional privilege when labeled a crime. It may be argued with some reason that it is not indispensable to the "independence of a legislator" to shield him from court action when he uses his office to willfully and intentionally slander another in a speech; yet, as we have seen, he cannot be called to account

in a court of law for such a willful abuse. The constitutional protection against being called upon to answer in "any other place" for a speech delivered in the House is equally impaired whether the court proceedings are criminal or civil. Indeed, fear of criminal prosecution may be the graver inhibition.

Coffin v. *Coffin*, which was quoted at length by the Supreme Court in both *Kilbourn* and *Tenney*, emphasized that the privilege belongs to the Congress and was developed for the benefit of Congress as a whole. This does not mean that a member of Congress is immune from sanction or punishment. Nor does it mean that a member may with impunity violate the law; it means only that the Constitution has clothed the House of which he is a member with the sole authority to try him. In this respect the Constitution has made the Houses of Congress independent of other [1371] departments of the Government. These bodies, the Founders thought, could be trusted to deal fairly with an accused member and at the same time do so with proper regard for their own integrity and dignity.

The broad interpretation we give to the congressional privilege does not, we believe, contravene a caveat the Supreme Court placed at the conclusion of both the *Kilbourn* and *Tenney* opinions. In its entirety, the caveat pronounced in *Kilbourn* reads:

> It is not necessary to decide here that there may not be things done, in the one House or the other, of an extraordinary character, for which the members who take part in the act may be held legally responsible. If we could suppose the members of these bodies so far to forget their high functions and the noble instrument under which they act as to imitate the Long Parliament in the execution of the Chief Magistrate of the nation, or to follow the example of the French Assembly in assuming the function of a court for capital punishment we are not prepared to say that such an utter perversion of their powers to a criminal purpose would be screened from punishment by the constitutional provision for freedom of debate. 103 U.S. at 204-05.

From the illustrations hypothesized in the caveat, it is plain that the Court envisioned a situation so extreme that the Congress as a whole, because of its total involvement in the

corruption, was incapable of taking appropriate disciplinary action against individual members. No such situation is before us, nor does this case even remotely approximate one.

[1372] All will agree that when a congressman accepts compensation for a speech, his act is reprehensible. However, the privilege being applicable, courts are barred from exercising jurisdiction, and the duty falls upon the House of Congress to punish its offending member. It is not an unfamiliar concept to bar a conviction, regardless of how contemptible the defendant's act may be, in order to protect and preserve an important constitutional principle. This is precisely the doctrine underlying the innumerable cases involving violations of the Bill of Rights and the Fourteenth Amendment. No better examples need be cited than the recent cases of *Mapp* v. *Ohio* [16] and *Gideon* v. *Wainwright*.[17]

Judicial enforcement of the constitutional rights asserted in these two, and in similar, cases goes even further, for it often removes all possibility of punishment, while here sanctions remain unimpaired which may be imposed by the House membership.[18] If these sanctions be deemed insufficient in particular cases, the limitation comes from the Constitution.

A practical reason exists for invoking the congressional privilege, which meets the objective of the constitutional provision. The design is to promote the independence of all congressmen. To avoid restraint on free expression on the floor of either House, protection is given against the hazard [1373] and harassment of inquiry in any court. It is no answer, therefore, to say that if the accused member is innocent of accepting a bribe he has nothing to fear. A groundless charge may be sufficient to destroy him at the polls. Moreover, the process of indictment by a grand jury and inquiry in a court may itself be so devastating that an innocent congressman may well fear it.

It is interesting to note that the Supreme Court has recently used a similar approach in related areas involving potential

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[16] 367 U.S. 643 (1961).

[17] 372 U.S. 335 (1963).

[18] Art. 1, § 5, cl. 2 of the United States Constitution reads: "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member."

impediments on constitutional rights. Discussing the oath condemned in *Baggett* v. *Bullitt*, U.S. , (1964, Mr. Justice White said:

> The uncertain meanings of the oaths require the oath-taker—teachers and public servants—to "steer far wider of the unlawful zone," *Speiser* v. *Randall*, 357 U.S. 513, 526, than if the boundaries of the forbidden areas were clearly marked. Those with a conscientious regard for what they solemnly swear or affirm, sensitive to the perils posed by the oath's indefinite language, avoid the risk of loss of employment, and perhaps profession, only by restricting their conduct to that which is unquestionably safe. Free speech may not be so inhibited.

Similarly in *New York Times Co.* v. *Sullivan*, 376 U.S. 254, 278 (1964), the court said:

> Whether or not a newspaper can survive a succession of such judgments, the pall of fear and timidity imposed upon those who would give voice to public criticism is an atmosphere in which the First Amendment freedoms cannot survive.

[1374] In that case, Mr. Justice Goldberg in a concurring opinion quoted Judge Learned Hand's summary of the policies underlying the grant of immunity against liability to legislators, judges and executive officers. The same policies apply here.

> "It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen upon others, or for any other personal motive not connected with the public good, should not escape liability for the injuries he may so cause; and, if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery. The justification for doing so is that it is impossible to know whether the claim is well founded until the case has been tried, and that to submit all officials, the innocent as well as the guilty, to the burden of a trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties. Again

> and again the public interest calls for action which may turn out to be founded on a mistake, in the face of which an official may later find himself hard put to it to satisfy a jury of his good faith. There must indeed be means of punishing public officers who have been truant to their duties; but that is quite another matter from exposing such as have been honestly mistaken to suit by anyone who has suffered from their errors. As is so often the case, the answer must be found in a balance between the evils inevitable in either alternative. In this instance it has been thought in the end better to leave unredressed the wrongs done by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation." * * * [1375] *Gregoire* v. *Biddle*, 177 F. 2d 579, 581. 376 U.S. at 302–03.

In the case of a congressman, the possibility—even the likelihood—of ultimate vindication in a court proceeding is no substitute for the guarantee held out by the Constitution.

Count one of the indictment is unconstitutional as applied to defendant Johnson. But as none of the privileges of Article I, section 6 pertain to the defendants who are not members of Congress, their attack on the first count, unlike Johnson's, is not sustained.

B. COUNTS 2 TO 8

We turn now to the remaining counts of the indictment. Counts 2 to 8 allege substantive violations of 18 U.S.C.A. § 281.[19] Each count charges that Johnson conferred with of-

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[19] Section 281 provides, in part:

"Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, or the head of a department, or other officer or employee of the United States or any department or agency thereof, directly or indirectly receives or agrees to receive, any compensation for any services rendered or to be rendered, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter in which the United States is a party or directly or indirectly interested, before any department, agency, court martial, officer, or any civil, military, or naval commission, shall be fined not more than $10,000 or imprisoned not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States."

ficials of the Justice Department in an attempt to secure the postponement and eventual dismissal of criminal charges pending against Edlin in Maryland, and that for these services he received compensation.

[1376] *1. Venue*

It is conceded that none of the services recited in the indictment was rendered in Maryland. The charge is that Johnson received seven checks—one for each of counts 2 to 8—and that he deposited them all in a Maryland bank. Four of the checks (counts 3 to 6) were drawn on a Maryland bank and three (counts 2, 7 and 8) on a Florida bank. The appellants contend that Maryland was not the proper district in which to try these substantive counts because the checks were delivered to Johnson in Washington, D.C., and that was where "compensation" was received.

Venue is more than a technical concept; it is a constitutional requirement. Article III, section 2, clause 3 commands that "[t]he Trial of all Crimes * * * shall be held in the State where the said Crimes shall have been committed * * *." As pointed out by Justice Frankfurter in *United States* v. *Johnson*, 323 U.S. 273, 275 (1944), the Sixth Amendment "underscore[s] the importance of this safeguard" in requiring trial "by an impartial jury of the State and district wherein the crime shall have been committed." See also *United States* v. *Cores*, 356 U.S. 405 (1958).

In the case of *Burton* v. *United States*, 196 U.S. 283 (1905), the Supreme Court had occasion to pass upon the nature of checks as compensation. The indictment in that case charged the defendant, a United States Senator, with the receipt of various checks at St. Louis, Missouri. The case was tried in the United States District Court of Missouri where the evidence showed that the checks, drawn on a St. Louis bank, were in fact delivered in Washington, D.C. The defendant contended, unsuccessfully in the District Court, that Washington, not Missouri, was the proper venue.

[1377] The Supreme Court noted that after the defendant received the checks in Washington he endorsed and deposited them in a Washington bank. After a detailed discussion of the relevant banking laws, the Court concluded that the Washington bank became the owner of the checks upon Burton's

endorsement and was not his agent for collection from the St. Louis bank. The Court then held:

> All this made a payment at Washington, and as a result there was a total lack of evidence to sustain the sixth, seventh, eighth and ninth counts of the indictment. The court should have, therefore, directed a verdict of not guilty on those counts. 196 U.S. at 304.

The case makes it clear that the place of the delivery of a check is not the sole determinative of venue. If it were, the Court's wrestling with banking laws to determine where the payment of the check occurred would have been needless and irrelevant. *United States* v. *Lotsch*, 102 F. 2d 35 (2d Cir. 1939).

Burton does not supply the answer as to venue for all of the substantive counts, but it is conclusive as to counts 3 to 6. In these counts it was alleged that Johnson received checks drawn on one Maryland bank and deposited them in another Maryland bank. Maryland banking law, unlike that in force in Washington, D.C., at the time of the *Burton* case, designates a bank in which a check is deposited, as an agent for collection only. 1 MD. CODE (1957), Art. 11 §§ 119, 121. This presents no problem as to counts 3 to 6, for the bank making final payment, *i.e.*, the drawee bank, and also the bank in which the checks were deposited were both located in the District of Maryland.

The venue for counts 2, 7 and 8 is not as clear, because in [1378] these counts the drawee bank was located in Florida, while the depositing bank was in Maryland. *Burton* did not consider the effect on venue where the depositing and paying banks are in different districts.[20]

The Government contends further that on these three counts venue in Maryland can be supported on the theory that when a check is involved, "compensation" constitutes a continuing

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[20] Justice Harlan dissented from the Court's opinion in *Burton*. He took the view that the Washington bank in which Burton deposited the check was only an agent for collection, and that the St. Louis bank, the drawee bank, was the bank making final payment. Because of this position he, unlike the other Justices, was required to consider the effect on venue where the depositing district and the payment district are different. His conclusion was that venue was properly laid in the District Court at St. Louis.

offense within the meaning of 18 U.S.C.A. § 3237 [21] and that a prosecution can be brought for a violation of section 281 either where the check was deposited or where it was paid. The proposition is well supported.

In *Benson* v. *Henkel*, 198 U.S. 1, 9 (1905), a prosecution for bribery, the indictment charged that "the defendant unlawfully *gave* to such officer, in the District of Columbia, certain sums of money, with the intent to induce him to do an act in violation of his lawful duty * * *." (Emphasis added.) The evidence showed that the defendant had mailed cash from California to the District of Columbia. The contention was that venue lay in California, where the [1379] cash was mailed, and not in Washington, where the case was tried. The Court disagreed, noting that "the case is treated as covered by sec. 731 [now 18 U.S.C.A. § 3237], providing that when an offense is begun in one District and completed in another it shall be deemed to have been committed in either, and be tried in either, as though it had been wholly committed therein."

The Government's position is that if *giving* can be considered a continuous act so too can *receiving* which is the same act viewed from the other side. We consider the analogy sound and, like the District Court, adopt it. When Johnson deposited the Florida checks in his Maryland bank for collection he started a chain of events not unlike the mailing of cash in *Benson*.[22]

We are fully advertent to certain language in the *Burton* case which, standing alone, appears to cut the other way.

> This is not a case of the commencement of a crime in one district and its completion in another, so that

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[21] 18 U.S.C.A. § 3237 reads, in pertinent part, as follows:

"(a) Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed."

[22] This conclusion does not conflict with Justice Harlan's dissent in *Burton*, noted in n. 20. The original prosecution against Senator Burton was brought in the district where, as Justice Harlan concluded, final payment was made on the check, *i.e.*, Missouri. Justice Harlan held this to be proper. In the instant case, had the original prosecution been brought in Florida, the situs of the drawee bank, the continuing offense statute would have supported venue there, as well as in Maryland.

> under the statute the court in either district has jurisdiction. Rev. Stat. sec. 731; 1 Comp. Stat. p. 585. There was no beginning of the offense in Missouri. The payment of the money was in Washington, and there was no commencement of that offense when the officer of the Rialto Company sent the checks [1380] from St. Louis to defendant. The latter did not thereby begin an offense in Missouri." 196 U.S. at 304.

We agree with the District Court that the above language does not negative the result we reach here. The *Henkel* and *Burton* cases were decided at the same term, and the Supreme Court in *Burton* was merely rejecting a government argument that one is guilty of receiving compensation at the moment a check is sent by the payer. In the instant case the indictment alleged, and the proof established, that Johnson both received and deposited the checks in Maryland.

We conclude, therefore, that the District of Maryland was a proper venue for the prosecution of the substantive counts, 2, 7 and 8, as well as 3 through 6.

2. Application of Section 281 to Johnson

It is the appellants' position that counts 2 to 8 fail to state an offense against Johnson because his conversations with officials of the Justice Department were in his capacity as an attorney in connection with a case pending in court. Hence they contend that section 281 covers neither Johnson as principal nor the others as aiders and abettors. The argument is hollow. Steadfastly throughout the trial Johnson maintained that he was not acting as an attorney. But even if he had maintained the contrary, the mere fact that the conversations related to a pending court proceeding would not bar a prosecution under section 281.

The purpose of section 281 is stated in *United States* v. *Adams*, 115 F. Supp. 731, 734–35 (D.N.D. 1953):

> It [section 281] was aimed at preventing Congress-[1381]men, officers and employees of the United States Government from using the weight of their positions or their influence in connection with matters which were to be determined before any department, agency, court martial, officer or commission and was to assist in insuring the integrity of such departmental determinations.

See also *United States* v. *Burton*, 202 U.S. 344, 368 (1906).

The legislative history of the predecessor to section 281 makes it clear that Congress considered and rejected a proposal to prohibit lawyer-congressmen from appearing as counsel in courts. This policy decision continues to this day, and its rationale is obvious. Governmental departments, agencies, etc., are dependent upon Congress for support, and therefore these bodies are readily susceptible to pressures from individual Senators and Representatives. Courts, on the other hand, are surrounded by protections to assure their independence. A lawyer-congressman's status and influence when he appears in open court are entirely different when he intervenes in a departmental matter. This difference was given legislative recognition.

Senator Trumbull, Chairman of the Senate Judiciary Committee when the statute was originally considered, reported to the Senate that the Committee proposed "to restrain members of Congress * * * from receiving a compensation * * * for doing any business before any Department * * * or anywhere else *except in the judicial tribunals* of the country." Cong. Globe, 38th Cong., 1st Sess. (1864), p. 555 (Emphasis added). He added:

> "This is not a bill to prevent attorneys from practis-[1382]ing in courts of law, but it is a bill to prevent Representatives and Senators in Congress * * * from receiving a compensation for advocating claims in the departments and before the bureaus of the government * * *." Cong. Globe, 38th Cong., 1st Sess. (1864), p. 561.

While Edlin in particular stresses this history, it does not support his contention. The evidence was undisputed that Johnson did not enter his appearance in the criminal case pending against Edlin. In fact, the attorney who did represent Edlin in the criminal trial was not even aware of Johnson's efforts in behalf of Edlin.

Edlin also argues that the indictment is defective because, "[t]he plain words of § 281 confine its operation to services in proceedings *pending* before any department, agency or officer of the Government. (Emphasis added). As the District Court noted, section 281 does not use the word "pending." "The

words 'before any department, agency,' etc., refer to where the services have been rendered or are to be rendered, not where the proceeding or other matter is pending." 215 F. Supp. 300, 316. The services alleged in the indictment were in relation to a matter in which the United States was a party, namely the criminal charge pending against Edlin; and the services were performed before a department, namely the Department of Justice. As noted above, the Department did have a significant role, and it had the power to take affirmative action as a result of Johnson's visits. Counts 2 to 8 of the indictment as they pertain to Johnson are sufficient. See *United States* v. *Burton*, 202 U.S. 344 (1906); *United States* v. *Quinn*, 111 F. Supp. 870 (E.D.N.Y. 1953). *Cf. United States* v. *Waldin*, 122 F. Supp. 903 (E.D. Pa. 1954); *United States* v. *Adams*, 115 F. Supp. 731 (D.N.D. 1953).

[1383] It is not necessary for us to decide whether it is permissible for a congressman who is a lawyer to represent a client, solely before a government department, in relation to his client's court case and yet not enter his appearance in court. The District Court ruled that such activity would be permissible, if the congressman-lawyer disclosed to the department that he is appearing as an attorney and not as a congressman. This conclusion is as favorable as Johnson was entitled to demand, for in the absence of such disclosure the congressman's appearance would unquestionably violate the plain words of the statute.

3. *Edlin and Robinson as Aiders and Abettors*

A further objection to the validity of the indictment is pressed by appellants Edlin and Robinson. They say that under the applicable decisions no prosecution can be sustained for aiding and abetting a violation of section 281. Decisions directly in point are in conflict. *United States* v. *Bowles*, 183 F. Supp. 237 (D. Me. 1958), supports the appellants while *May* v. *United States*, 175 F. 2d 994 (D.C. Cir. 1949), is contra, as is *United States* v. *Quinn, supra.*

Relevant, but distinguishable, is *Gebardi* v. *United States*, 287 U.S. 112 (1932), where the Supreme Court held that in a Mann Act prosecution, a woman whose participation is limited to willfully permitting another to transport her in interstate commerce for purpose of prostitution cannot be tried as

a conspirator.[23] See also *Nigro* v. *United States*, 117 F. 2d 624 (8th Cir. 1941), and *Lott* v. *United States*, 205 Fed. 28 (9th Cir. 1913).

But the indictment before us is different from those in [1384] the above cited cases, and the difference is decisive. This indictment does not charge that Robinson and Edlin aided and abetted in the completion of the offense merely as payers. It goes further. It charges them with a far more active role—"aiding, abetting, counselling, commanding, inducing and procuring." This charges conduct in *addition* to the mere payment of money necessary to complete a violation of section 281.[24]

II. Disclosure of the Grand Jury Transcript

Prior to trial, Johnson moved for the production of his grand jury testimony. He supported his motion with an affidavit setting forth his reasons. In part, the affidavit reads:

> By reason of the length of the interrogation, the intensity at times with which it was conducted and the fact that I was tired physically and mentally from my work in the House of Representatives and my vigorous campagn for reelection on the Eastern Shore, I do not recollect a considerable part of my testimony.

The District Court denied the motion.

Later, it was disclosed that the Government, before the trial, had permitted a government witness to examine the [1385] witness' grand jury testimony. The witness' attorney was accorded the same opportunity, and together they read a volume of the transcript containing the witness' testimony and the testimony of others. The appellants moved the court for the production of all the grand jury testimony on the ground that the Government had breached "the veil of secrecy" usually surrounding grand jury records. This motion also, the court denied. But the court made available to the appellants the

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[23] *Cf. United States* v. *Holte*, 236 U.S. 140 (1915).

[24] In *Bowles* the indictment apparently averred only that the alleged aiders and abettors had paid money. The court's opinion indicated no other acts of assistance. The same is true of *Nigro* and *Lott*. Because of the difference between these cases and ours, we are not required to rule on whether mere payment would be sufficient to sustain a charge of aiding and abetting.

volume of testimony revealed by the Government. We find no error in either of these rulings.

The practice of shielding grand jury proceedings from discovery is long-established and rests on sound policy.[25] *Costello* v. *United States*, 350 U.S. 359, 362 (1957); *United States* v. *Johnson*, 319 U.S. 503, 513 (1943). In recent years the Supreme Court has reaffirmed its commitment to this practice. *Pittsburgh Plate Glass Co.* v. *United States*, 360 U.S. 395 (1959) *affirming* 260 F. 2d 397 (4th Cir. 1958); *United States* v. *Procter & Gamble*, 356 U.S. 677 (1958).

Of course, where there is a particularized need for grand [1386] jury minutes, it is within the sound discretion of the district court to require their production. *Pittsburgh Plate Glass Co.* v. *United States, supra; United States* v. *Socony-Vacuum Oil Co.*, 310 U.S. 150, 231 (1940). But it is manifest from a reading of Johnson's affidavit that he showed no particularized need. His justification for requesting his testimony is not different from that of any other defendant. If his motion were to be granted then all similar motions would have to be granted automatically regardless of any showing of particularized need. It is difficult to imagine a defendant who could remember all of his grand jury testimony, or who was not emotionally strained when giving it. No special impact on Johnson is made to appear and there is no showing of a threatened injustice from the denial.

Likewise, the fact that the Government, in preparation for the trial, disclosed a volume of the transcript to one of its witnesses does not require the complete abandonment of secrecy. Secrecy is maintained for the benefit of the grand jury and for

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[25] Perhaps the most frequently cited justification for the practice is found in *United States* v. *Rose*, 215 F. 2d 617, 628–29 (3d Cir. 1954). There the court summarized the reasons for the rule as follows:

"(1) To prevent the escape of those whose indictment may be contemplated; (2) to insure the utmost freedom to the grand jury in its deliberations, and to prevent persons subject to indictment or their friends from importuning the grand jurors; (3) to prevent subornation of perjury or tampering with the witnesses who may testify before grand jury and later appear at the trial of those indicted by it; (4) to encourage free and untrammeled disclosures by persons who have information with respect to the commission of crimes; (5) to protect innocent accused who is exonerated from disclosure of the fact that he has been under investigation, and from the expense of standing trial where there was no probability of guilt."

the betterment of grand jury proceedings. *United States* v. *Smyth*, 104 F. Supp. 283, 304 (N.D. Cal. 1952). Where it becomes necessary to breach the secrecy of the proceedings, it should be done "discreetly and limitedly." *United States* v. *Proctor & Gamble*, 356 U.S. 677, 683 (1958). This is what the Judge did. He repaired any possible damage to the defendants and equalized the situation by permitting them to examine the same testimony which was shown to the government witness.

III. Sufficency of the Evidence

The appellants complain that the evidence is insufficient to support the verdict. To a large extent their contentions [1387] merely repeat the arguments made in their attack on the indictment. For example, arguing the insufficiency to support a finding of a section 281 violation, Edlin reintroduces his concept of the statutes,[36] and follows through with the assertion that there was no evidence showing a violation of section 281 as he defines it.

The trial was long, extending over eleven weeks, and the record is mammoth, consisting of 41 volumes of 5,600 pages of testimony and many exhibits. We have closely examined this mass of material and have carefully considered the arguments. To restate all of the evidence here would be a useless exercise. The posture of the case, on appeal from a judgment of conviction, requires us to view the evidence in the light most favorable to the Government. For the present purpose, a condensed statement will suffice.

Appellant J. Kenneth Edlin was the dominating force in two Maryland savings and loan associations, First Colony Savings and Loan Association and First Continental Savings and Loan Association. Robinson was Edlin's associate and an officer in each of these associations. According to Martin Heflin, a public relations man, Edlin and Robinson consulted him in April, 1960, about the possibility of having a speech delivered in Congress in behalf of savings and loan institutions. Robinson made an initial draft of such a speech and sent it to Heflin who edited it and inserted the words "Mr. Speaker" at appropriate places. Heflin, however, pointed out to Robinson

[36] See section IA1, *supra*.

and Edlin that there was no reason to make the speech at that time, and that no one "could be justified in making a speech." [1388] The next month, May, 1960, Heflin, Edlin and Jackson Rains, an accountant for First Colony, met with Congressman Johnson in a Washington restaurant where they discussed the situation of Maryland savings and loan associations. Johnson asked Heflin to send him a resume of the meeting.

On June 30, 1960, Johnson delivered the speech on the floor of the House of Representatives. Johnson testified that the speech was prompted by an unfavorable newspaper article in the May 27, 1960, edition of the Washington Star, and by his own desire to create a political issue for the upcoming congressional election. The newspaper article, however, was a relatively minor one and appeared on an inside page. On cross-examination Johnson admitted that he never had any complaints from his constituents concerning the article or even about savings and loan associations in general, and that no constituent had requested him to make a speech. He also admitted that he made no mention of the speech either in his customary weekly newsletter to constituents or during his campaign.

Johnson also testified that his administrative assistant, Manual Buarque, wrote the speech with the aid of information supplied by Heflin. Buarque testified to the same effect. But other evidence cast grave doubt on the truthfulness of this testimony. Another version of the authorship of the speech came from Accountant Rains, who testified that immediately before or after the speech was delivered Edlin showed him a copy. Rains also testified that on July 4, 1960, on a plane trip from Maryland to Florida, Robinson and Edlin joked about the authorship of the speech. His testimony was:

> [1389] Everyone was in good spirits. Mr. Edlin and Mr. Robinson were sitting together and they were showing the speech back and forth and saying, jokingly, or facetiously, "How do you like the speech I wrote," and the other one would say, "What do you mean, you wrote it? I wrote it,"—and that sort of thing.

Ten days before the speech, Robinson sent Johnson a check for $500. Both men claimed at the trial that it was a campaign contribution, but the evidence showed that when the check was drawn Robinson's bank account was insufficient to cover the

sum, and that immediately thereafter he deposited a $300 check from First Colony. First Colony recorded the check as a legal expense.

First Continental Savings and Loan thereafter ordered 50,000 reprints of the speech, underlined in red at significant portions and used to attract depositors.

It is important to note here that as of 1959, Edlin, together with Rains and First Colony, were under indictment in the District Court of Maryland for mail fraud. Rains testified that when Edlin showed him the speech, he reassured him about the pending indictment. According to Rains, Edlin said "[Y]ou see, we have friends on the Hill—we have nothing to fear on our indictment. These people are interested in us and the injustice we have been done."

The testimony of Edlin's secretary, Mrs. Sadie Goldman, was significant. She testified that in the first week of June, 1960, (before the speech) Edlin came into the office in an unusually good mood and told her: "Well, I have made a new contact. There is no stopping us now. The sky's the limit. We'll have a chain of banks, Sadie, we are going to be [1390] rich. Seriously, Sadie, it is a Congressman." She also testified that she later asked Robinson why Edlin was so excited. Robinson asked her if she had ever heard of Congressman Johnson, and when she said she had not, Robinson told her, "You will hear plenty about him now. He is on our payroll. It is costing Ken [Edlin] plenty."

Johnson claimed at the trial that when he made the speech he did not know that an indictment was pending against Edlin. Buarque, the Congressman's administrative assistant, testified that he was aware of the indictment but did not inform Johnson. In closing arguments, the Government maintained that in the context of the events both Johnson's and Buarque's testimony was "incredible."

In addition, Mrs. Goldman said that in July, 1960, she asked Robinson what would happen to her job if Edlin were convicted. Robinson replied, "You have nothing to worry about. The Congressmen are being paid well and Ken [Edlin] will never go to jail. Don't worry."

The evidence is uncontradicted that Congressman Johnson did receive the checks mentioned in the indictment and that

when he, together with Congressman Boykin, spoke to the Attorney General and other members of the Justice Department in behalf of Edlin, he did not tell them that he was appearing as an attorney.

Both Robinson and Edlin conferred with Johnson a number of times as to the best approach to the Department. Robinson also prepared an analysis of the indictment for presentation to the Justice Department.

[1391] Louis Goldman, an attorney, testified that "Mr. Edlin from time to time would say that he had nothing to worry about the indictment. That his friends on the Hill would take care of it for him and that everything would turn out all right." In response to the question whether Edlin ever referred to costs, Goldman answered: "From time to time Mr. Edlin would say that it is costing him a lot of money and that the cost is eating him up." He also testified that on one occasion, noticing that Edlin looked worried—

> I asked him what was wrong, and at that time he told me that he was concerned with the fact that Congressman Boykin and Congressman Johnson were not getting anywheres with his indictment; that it was costing him a lot of money. When I asked him what he meant by that, he stopped for a minute, looked at me, and said, "Forget it." That was the end of that.

At the trial the appellants claimed that the checks listed in the indictment represented payments to Johnson for valid legal services. It was the Government's contention that to a large extent the alleged legal services were either performed by other attorneys or not performed at all. Our examination of the record leads to the conclusion that there was ample basis, both in the testimony in chief and in cross-examination of Johnson and Robinson, for the jury to believe that the appellants' explanation for the checks was false and that the money was paid to Johnson for making the speech and for using his influence in the Department of Justice.

For example, in his direct testimony Johnson related that he had performed legal services on 305 mortgages to the Cassell Land Company. His testimony was that over [1392] $1,600,000 was involved and that his job was to review the mortgages, half of which he found to be defective. To correct the defects, he testified, he and another lawyer drew up one confirmatory

mortgage. On cross-examination, he said he could not remember giving this testimony on direct, but repeated that there was a confirmatory mortgage. However, it was shown that before the Montgomery County Grand Jury he swore that he redrafted each of the defective mortgages. Faced with the conflict, he admitted that the grand jury testimony was incorrect. The prosecution then confronted him with a prepared statement he had issued, to the effect that "new *indentures* had to be made to correct the mistakes [in the mortgages]." [Emphasis added]. In addition to this obvious conflict, he then acknowledged on cross-examination that he did not prepare the confirmatory mortgage, but that another lawyer did.

Again, in direct testimony Johnson had said in reference to a proposed loan to the Savarin Development Corporation: "I did participate in the preparation of the entire loan agreement, the mortgages." Yet he later conceded that he did not mention the loan to the grand jury and, on cross-examination, stated that Robinson actually prepared the loan papers.

Two attorneys who assertedly worked with Johnson testified that they and not Johnson performed the legal work. One, Carrico, testified that shortly before the trial Johnson visited him and asked him to sign a prepared statement concerning Johnson's legal services. Carrico refused because the proffered statement recited that Johnson had visited him to discuss a foreclosure—a statement Carrico would not confirm and his records did not reflect.

[1393] Moreover, Johnson introduced into evidence many legal documents on which he had placed penciled notations. On cross-examination, however, a revealing light was shed when it was shown that Johnson had earlier given photostats of these same documents to the FBI and that the photostats were without the penciled marginal notes. Johnson had also furnished the FBI a photostat of a letter he had allegedly written to Robinson discussing the validity of a long agreement. The letter bore a Berlin, Maryland, return address, but its authenticity was impeached by the telephone company's records showing that throughout the day the letter was supposed to have been written in the town of Berlin, on the Eastern Shore of Maryland, Johnson placed long distance phone calls from his Washington office.

Robinson testified that Johnson was on a retainer, yet a statement he made to the FBI did not reflect this. On the contrary, in the FBI report, which he signed, he declared that particular checks were paid to Johnson for specific legal services. The checks, specified in the indictment, aggregating $17,550, which the appellants now claim were for legal services, are far in excess of the $6,000 to $7,500 claimed by Robinson in his interview with the FBI agent.

This testimony is representative of much more to the same effect. If believed by the jury, as it obviously was, it is more than sufficient to support the jury's verdict.

IV. Alleged Prejudicial Trial Errors

A. FBI agents' testimony—

[1394] At trial, the defense insisted that the checks specified in the indictment were payments to Johnson for legitimate legal services. Robinson and Johnson so testified. They both also testified that Johnson was on a retainer from the savings and loan associations controlled by Edlin.

To rebut this testimony, the Government called as a witness the FBI agent who had interviewed Robinson on January 11, 1962. In the course of the interview the agent made notes, then returned to his office and, from these notes, dictated a narrative statement which was subsequently typed and presented to Robinson. Robinson read, corrected and signed the statement. A copy was given to him.

The agent testified that in the interview Robinson made no mention of any retainer fee having been paid to Johnson. He also testified that after the statement was signed Robinson added that the total fees paid to Johnson were between $6,000 and $7,500. If believed by the jury it meant that the appellants' evidence that Johnson was on a retainer was probably false. The suggested inference is that if he were on a retainer, as now claimed, Robinson would have mentioned this fact to the agent. Moreover, the $6,000 to $7,500 testified to by the agent as the sum Robinson claimed to be the total legal fees, was far below that claimed by the appellants at the trial.

On cross-examination, the agent stated that after he dictated Robinson's statement he destroyed the interview notes in ac-

cordance with the then customary FBI procedure. The completed and signed statement of Robinson, which was made part of the agent's report, was retained in the FBI files. The agent further testified that while he was not aware at the time of the interview that Robinson was being [1395] investigated, he did recognize the possibility that Robinson might be called as a witness in a prosecution against Johnson. Robinson moved to strike the agent's entire testimony for the reason that the original notes of the interview had been destroyed. The court denied the motion and ruled the evidence admissible against Robinson, though not against Edlin.

Another FBI agent testified to an interview he had with Johnson's administrative assistant, Manuel Buarque. This agent's testimony was offered in rebuttal of certain testimony given by Buarque as a defense witness. At the interview, the agent made notes from which he later prepared his report. Buarque did not sign the report. Johnson's counsel moved that the agent's testimony be stricken because of the destruction of the notes. Again the trial court denied exclusion. Buarque, like Robinson, was furnished a copy of the report.

Appellant Robinson argues that the destroyed notes were a produceable "statement" under the Jencks Act, 18 U.S.C.A. § 3500, and that their willful destruction by the FBI required the agents' testimony to be stricken.[27] If the notes can qualify as a "statement," a serious question arises.

This is not the first time that a court has been called upon [1396] to consider the effect of the destruction of FBI interview notes. *Campbell* v. *United States*, 373 U.S. 487 (1963); *Killian* v. *United States*, 368 U.S. 231 (1961); *Ogden* v. *United States*, 323 F. 2d 818, 820–21 (9th Cir. 1963); *United States* v. *Greco*, 298 F. 2d 247 (2d Cir. 1961). Each time the problem has arisen the FBI has claimed that the notes were destroyed as part of FBI routine. This is really not a satisfactory answer. Where the agent testifies to matter he claims not to be in the notes and the defendant insists on a different version, an issue

[27] 18 U.S.C.A. § 3500(d) reads as follows:

"(d) If the United States elects not to comply with an order of the court under paragraph (b) or (c) hereof to deliver to the defendant any such statement, or such portion thereof as the court may direct, the court shall strike from the record the testimony of the witness, and the trial shall proceed unless the court in its discretion shall determine that the interests of justice require that a mistrial be declared."

arises which may not be satisfactorily resolved in the absence of the original notes. If the notes were available, they might confirm or refute one version or the other. One of the purposes of both the *Jencks* decision and the Jencks Act is to afford the defense an opportunity to impeach witnesses. *Palermo* v. *United States*, 360 U.S. 343 (1959); *United States* v. *Wenzel*, 311 F. 2d 164, 171 (4th Cir. 1962). The destruction of interview notes does not advance this purpose. Of course, a district court may find as a fact that the notes were not a substantially verbatim record, or that they were accurately copied into a report and then destroyed in good faith, but the necessity for inquiries along this line can be avoided by the preservation of notes until after the trial. Eliminating uncertainty may serve the interest of the Government no less than the defendant.

However this may be, as we view the Jencks Act, the notes in question do not qualify either as a "statement" or as a "report" as these terms are defined in the Act. Subsections (a), (b) and (e) are pertinent.

> (a) In any criminal prosecution brought by the United States, *no statement* or report in the possession of the United States which was *made by a Government* [1397] *witness* or prospective Government witness (other than the defendant) *to an agent of the Government* shall be the subject of subpena, discovery, or inspection until said witness has testified on direct examination in the trial of the case.
>
> (b) *After a witness called by the United States has testified* on direct examination, the court shall, on motion of the defendant, order the United States to produce *any statement* (*as hereinafter defined*) *of the witness* in the possession of the United States which relates to the subject matter as to which the witness has testified. * * *
>
> * * * * * *
>
> (e) The term "statement," * * * in relation to any *witness called by the United States* means—
>
> (1) a written *statement made by said witness* and signed or otherwise adopted or approved by him; or
>
> (2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement *made by said*

> *witness to an agent of the Government* and recorded contemporaneously with the making of such oral statement. [Emphasis added].

The italicized portions require that the obtainable "statement or report in the possession of the United States" must be made *by the witness*, and the witness must be a *government witness*. By its terms, the Act does not cover statements made either by a defendant or by a defense witness.

[1398] The FBI agents' reports were within the Jencks Act because in each instance the "report * * * was made by a Government witness * * * to an agent of the Government." *Holmes* v. *United States*, 271 F. 2d 635 (4th Cir. 1959). Copies of these verified statements were, as heretofore shown, in the defendants' possession. Assuming that the notes the agents made when interviewing Robinson and Buarque were "substantially verbatim recital[s] of oral statement[s]," they were at most statements of Robinson and Buarque, not statements "made by a Government witness."

Both FBI agents testified to their present recollection of the interviews. It was for the jury to consider the reliability and weight of their testimony, as compared to the testimony given by Robinson and Buarque.

B. ALLEGED COMMENT ON EDLIN'S FAILURE TO TESTIFY

Edlin claims that the prosecutor improperly commented on his failure to take the stand. The incident referred to occurred at the end of the Government's closing summary to the jury. After pointing out asserted inconsistencies in the appellants' positions, the prosecutor spoke these words:

> Members of the Jury, the defendant Edlin has presented no defense in this case. He has presented no evidence to contradict the charges against him. He has produced no evidence to deny numerous statements made by many, many government witnesses. He has produced no evidence to deny the testimony of numerous witnesses of his various activities which clearly indicate beyond any doubt, Members of the Jury, his guilt of the charges in this indictment.

[1399] In *Davis* v. *United States*, 279 F. 2d 127 (4th Cir. 1960), a similar argument was presented. The answer we gave applies with equal force here:

> The United States Attorney's argument cannot be said to have constituted a forbidden comment on the failure of the defendants to testify. He merely reviewed certain testimony and added, truthfully, that there was no evidence in contradiction.

The prosecutor did not draw improper attention to Edlin's refusal to testify. He merely pointed out that the defense did not introduce evidence to contradict certain of the prosecution's witnesses. Edlin was not the only person who could have refuted the Government's witnesses. *Leathers* v. *United States*, 250 F. 2d 159, 165 (9th Cir. 1957). The prosecutor addressed himself to the absence of anything in the record to contradict the Government's version of the case. Under these circumstances his comment was not improper. *Davis* v. *United States, supra; Garcia* v. *United States*, 315 F. 2d 133, 137 (5th Cir. 1963).

C. ALLEGED "TOTALITY OF PREJUDICE"

Edlin launches a more general attack on the trial, claiming that evidence admitted against one or more of his co-defendants constituted "in its totality" prejudice as to him. This amounts to no more than a continuation of his argument, dealt with earlier, that conspiracy cases in general often produce evidence against one defendant which may prove prejudicial to his co-defendant.

[1400] We have closely examined the numerous references to the record and find that they do not show the claimed "totality of prejudice." The record attests the close and careful attention the trial judge gave to questions of the admissibility of evidence. Wherever necessary he instructed the jury that evidence admissible only against certain appellants should not be considered against the others. We have earlier in this opinion pointed out the dangers inherent in conspiracy trials, but as long as Congress authorizes prosecutions for conspiracy and the Supreme Court adheres to its holdings that the Constitution does not proscribe them, we must rely in large measure on the alertness of district judges to protect the interests of the individual defendants by properly cautioning the jury as to

the purpose and effect of particular items of testimony. Indeed, the problem is potentially present whenever two or more defendants are jointly tried on any charge. The District Judge showed himself sensitive to the delicacy of his function as governor of the trial, and whenever the situation called for a specific instruction to the jury, appropriate instruction was given.

Where the trial judge finds that a defendant has been unduly harmed or his trial made unfair, he should in the interest of justice grant a new trial. *United States* v. *Decker*, 51 F. Supp. 20, 25–26 (D. Md. 1943). Upon full consideration, we cannot say that Edlin had an unfair trial. In the particular rulings, and in the totality of the trial we perceive no unfairness.

D. INSTRUCTIONS TO THE JURY

Each of the appellants presses the contention that certain portions of the court's charge to the jury were erroneous. [1401] First, it is said that the court committed reversible error in refusing to instruct the jury to acquit unless they found that the alleged legal services performed by Johnson were a "sham and pretense." The court refused the tendered instruction "because there is no requirement on the Government to prove sham and pretense."

The Government did not claim, nor was it necessary for it to show, that Johnson performed absolutely no legal services. The appellants' requested instruction, if granted, was susceptible of being understood by the jury as requiring it to find a set of facts beyond that charged by the Government. The court dealt with the subject adequately and avoided the possibility of misunderstanding when it told the jury that receipt of the compensation was illegal if it was, "in whole or in substantial part" for services rendered before the Department of Justice. This was unquestionably appropriate to direct the jury to the issue impartially. *United States* v. *Burton*, 202 U.S. 344 (1906).

The appellants also contend that the District Court erred in refusing their requested instruction on circumstantial evidence. This would have required the jury to disregard all circumstantial evidence unless it excluded every reasonable hypothesis except guilt. In *Holland* v. *United States*, 384 U.S. 121, 139–40 (1954), the Supreme Court explicitly rejected this formulation. Justice Clark, who wrote for a unanimous Court,

emphasized that "where the jury is properly instructed on the standards for reasonable doubt, such an additional instruction on circumstantial evidence is confusing and incorrect [citations omitted]." Here the court did instruct on reasonable doubt, using the formulation approved by the Supreme Court in *Holland*. Refusal of the tendered instruction was not error. *United States* v. *Law-*[1402]*renson*, 298 F. 2d 880, 884 (4th Cir. 1960); *Milanovich* v. *United States*, 275 F. 2d 716, 721 (4th Cir. 1960), *rev'd on other grounds*, 365 U.S. 551 (1961).

Edlin requested an instruction to the effect that the jury could consider whether his actions were based upon the advice of counsel in determining his intent and good faith, *United States* v. *Painter*, 314 F. 2d 939, 943 (4th Cir. 1963). The Judge's charge incorporated the substance of the requested instruction, and refusal to adopt Edlin's very words was not error. Other requested instructions were rejected, but we find no error, because insofar as they asserted valid propositions of law they were in essence embodied in the charge.

V. Conclusion

Though we find the evidence sufficient to support a guilty verdict on all counts, the invalidity of count one as applied to Johnson was obviously prejudicial to his right to the unbiased consideration of the jury on the remaining counts. Many of the events testified to at the trial related only to the speech. It was introduced into evidence and its authorship, contents, motivations and accuracy made the subject of extensive inquiry. The conclusion is unavoidable that this mass of evidence and comment, all inadmissible against Johnson, infected the jury's consideration of his innocence or guilt under the conflicts of interest counts. The judgment against Johnson is therefore vacated and the case remanded for a new trial on the counts charging violations of 18 U.S.C.A. § 281. As to Edlin and Robinson, the convictions are affirmed.

[1403]

Judgment as to Johnson vacated and a new trial ordered with instructions; judgment as to Edlin and Robinson affirmed.

[1404] In the United States Court of Appeals for the Fourth Circuit

No. 9223

UNITED STATES OF AMERICA, APPELLEE

vs.

THOMAS F. JOHNSON, J. KENNETH EDLIN, AND WILLIAM L. ROBINSON, APPELLANTS

Judgment filed and entered—September 16, 1964

Appeals from the United States District Court for the District of Maryland.

This cause came on to be heard on the record from the United States District Court for the District of Maryland and was argued by counsel.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court as to Thomas F. Johnson appealed from, in this cause, be, and the same is hereby, vacated, and that the cause be, and the same is hereby, remanded to the United States District Court for the District of Maryland, at Baltimore, with directions to set aside the verdict and grant a new trial in accordance with the opinion of the Court filed herein; and that the judgments of the said District Court as to J. Kenneth Edlin and William L. Robinson appealed from, in this cause, be, and the same are hereby, affirmed.

SIMON E. SOBELOFF,
Chief Judge, Fourth Circuit.
CLEMENT F. HAYNSWORTH, Jr.,
United States Circuit Judge.
JOHN D. BUTZNER,
United States District Judge.

[1405] Supreme Court of the United States

October Term, 1964

No. —

UNITED STATES, PETITIONER

vs.

THOMAS F. JOHNSON

Order extending time to file petition for writ of certiorari—October 19, 1964

UPON CONSIDERATION of the application of counsel for petitioner,

IT IS ORDERED that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including November 15, 1964.

EARL WARREN,
Chief Justice of the United States.

Dated this 19th day of October 1964.

[1406] Supreme Court of the United States

October Term, 1964

No. 695

UNITED STATES, PETITIONER

v.

THOMAS F. JOHNSON

Order allowing certiorari—January 25, 1965

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice White took no part in the consideration or decision of this petition.

U.S. GOVERNMENT PRINTING OFFICE : 1968